



City of Apache Junction, Arizona

Meeting Minutes City Council Meeting

Meeting location:

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

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

Tuesday, September 5, 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 September 5, 2017, at the Apache Junction City Council Chambers pursuant to the notice required by law.

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

B. INVOCATION AND PLEDGE OF ALLEGIANCE

Vice Mayor Wilson gave the Invocation.

Councilmember Evans led the Pledge of Allegiance.

C. ROLL CALL

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

Staff Present: City Manager Bryant Powell
Assistant City Manager Matt Busby
City Clerk Kathleen Connelly
City Attorney Joel Stern
Public Safety Director Tom Kelly
Public Works Director Michael Wever
Parks and Recreation Director Liz Langenbach
Development Services Director Larry Kirch

Others Present: Public Information Officer Al Bravo
 Grants Administrator Heather Patel
 Sponsorship/Partnership Programs Administrator Roger Hacker
 Recreation Superintendent Jamie Sullivan
 Senior Planner Rudy Esquivias

D. CONSENT AGENDA

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

No: 0

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

Councilmember Rizzi SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

1. [17-326](#) Consideration of acceptance of agenda.
2. [17-327](#) Consideration of approval of minutes of regular meeting of August 15, 2017.

E. AWARDS, PRESENTATIONS AND PROCLAMATIONS

3. [17-298](#) Presentation of proclamation designating September 17th - 23rd as Constitution Week and September 17th as Constitution Day. Karen Barks of the Daughters of the American Revolution will be present to accept the proclamation.

Mayor Serdy read a proclamation designating September 2017 as United Food Bank National Hunger Action Month and presented it to Jackie Shelley of the United Food Bank.

4. [17-335](#) Presentation of proclamation designating September 2017 as United Food Bank National Hunger Action Month.

Mayor Serdy read a proclamation designating September 17-23, 2017 as Constitution Week and September 17 as Constitution Day and presented it to Karen Barks and Regent Audra Glines of the Daughters of the Revolution.

5. [17-343](#) Recognition by the mayor and city council of individuals and/or organizations

who have made donations to support city activities, programs and projects.

Sponsorship/Partnership Programs Administrator Roger Hacker announced this is the quarterly recognition for those that have made donations to support activities.

Parks and Recreation Director Liz Langenbach gave a brief presentation to recognize Mr. Ed Braunger of Apache Greyhound Park whose donation of \$30,226.46 would be for shade structures in city parks.

F. ANNOUNCEMENT OF CURRENT EVENTS

Councilmember Struble announced on September 14 at the Apache Junction High School Auditorium former Arizona Secretary of State Ken Bennett will be making a presentation on the formation of the Arizona Constitution starting at 6:30 p.m.

Councilmember Evans announced this Saturday is the new plant plantings at Earth Heart Park starting around 7 a.m.

Councilmember Rizzi announced she attended the Paws and Claws Clear the Shelter Event a couple of weeks ago. She used to volunteer to clean the kennels back in 2007 and the new kennel doors amaze her. That was done with thousands of dollars of volunteer donations. It is incredible what people do for our community.

Mayor Serdy announced he was able to get a tour of the new Fry's for the council to check their progress. They are scheduled to open October 27, 2017.

Mayor Serdy announced he wanted to commend the job that Phoenix Police Department did on not letting things get out of hand a couple of weeks ago when the president was there.

G. CITY MANAGER'S REPORT

6. [17-332](#) City manager's report.

City Manager Bryant Powell thanked Apache Greyhound Park, commented on the upcoming town hall and the Clear the Shelter Event.

7. [17-341](#) Presentation and discussion on the traffic signals along Apache Trail.

Mayor Serdy commented a lot of the councilmembers were getting inquiries about the delay on the traffic lights. Because

Apache Trail is so deep there are two sets of lights and the first one will turn red and the furthest one stays green. They have not been able to get an answer as to why and why there are different times for different intersections. They are doing the same thing at Crismon and Ellsworth. He asked if he had any answers.

Public Works Director Michael Wever stated he did not have any answers from Maricopa County Department of Transportation and Arizona Department of Transportation on the lags. He gave them a briefing on where they are headed.

Councilmember Struble asked if Idaho and Meridian are Arizona Department of Transportation lights and the rest of them are city-operated lights.

Public Works Director Michael Wever stated the Meridian light is Maricopa County and Idaho is the state.

Councilmember Struble asked if the rest of them are city.

City Manager Bryant Powell thanked him for letting them know. They are working on it and Arizona Department of Transportation is working on it. It is important for the community to know that every light and intersection from Crismon to Power is not ours. They have not had complaints on any that are city, just Maricopa County and Arizona Department of Transportation and they are being worked on.

Mayor Serdy commented they had also heard there had been some accidents. When he asked Captain Mullender he was told they did not have any records on there being any accidents due to this but there is a lot of confusion, especially people from out of state. Scottsdale has the left turn after the green and it varies from city to city so it is very confusing.

Public Works Director Michael Wever stated they will hopefully get some continuity on the lights as a result of the study.

H. PUBLIC HEARINGS

8. [17-339](#) Consideration of application for a location transfer, corporation, series 7 beer and wine bar license for Fry's Marketplace #665 located at 150 East Old West Highway. The next step in the process is for the council to hold a public hearing on the application and forward a recommendation for approval or denial to the Arizona Department of Liquor Licenses and Control.

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

No: 0

City Clerk Kathleen Connelly briefed the council on the items.

Mayor Serdy requested the applicant address the council.

Mr. Craig Miller of Arizona Liquor Industry Consultants advised they are taking over as the statutory agents, training and license oversight for Fry's. He could answer questions about the types, styles of licenses and what the privileges are with those. He can touch briefly on some information on Fry's as best he can.

Mayor Serdy commented he understands that for a few days both Fry's will be open concurrently while they are transitioning. He asked if that is a problem with these licenses.

City Clerk Kathleen Connelly stated not that she is aware of.

Mr. Craig Miller stated the plan is to hopefully get the licenses in place and they can start moving product over on October 5. The grand opening date is October 27. It is important they have the license before because the wholesalers cannot deliver at that location until the licenses are in place. Once the license is transferred it will no longer be utilized at both locations. The series 9 might be transferring from another store in Pinal County to that location. The series 7 is also coming from a different location in Pinal County. The current Fry's does not have a beer and wine bar. The series 9 is a liquor store license allowing them to sell beer, wine and distilled spirits for off premise consumption. The series 7 is a beer and wine bar that allows for on premise consumption of beer and wine only and follows the state law on the amount they can serve to one person. The on premise consumption will be restricted to the wine bar located within the interior.

Mayor Serdy asked if that will be run the same way as at the Signal Butte and Guadalupe store.

Mr. Craig Miller stated that is correct.

Councilmember Rizzi asked him to describe for the public what the beer and wine bar would be like. She asked if it is just tasting of or if she could come in, sit

down and have a sandwich and a beer.

Mr. Craig Miller stated this is a large grocery store. Within the interior there will be a designated area with some railings and an actual, physical bar. They can go up and talk to the bartender and they can order a glass of wine, bottle of beer or a draft beer. They have to stay in a confined area where the bartender can monitor them. The maximum seating is 15 to 20 people in most of the Fry's interior locations. In theory he could take his three daughters and his wife shopping and he could go sit at the bar and watch the local sports game and have a glass of beer. In a lot of the locations it becomes a meeting area. They can get a plate of the fresh cheeses, vegetable plates or they can get food from the different option areas. They could have a light meal or appetizer. Some of the wines are very expensive. They have the choice of by the glass before they decide to spend \$40 to \$50 for a bottle of wine. Series 9 licenses allow producers and wholesalers to do sampling at the locations to increase their sales. It is usually done with one specific type of wine. This one will have a multitude of wines they can sample.

Councilmember Rizzi commented there is food available.

Mr. Craig Miller stated there is going to be food. That is a big part of the new Fry's concept.

Mayor Serdy commented Desert Liquors was doing that right before they closed. He opened the public hearing on the series 7 liquor license. There being no one wishing to speak, he closed the public hearing and reopened the item to council discussion.

Councilmember Struble commented it would be a pretty bad deal if they turned this down.

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

Councilmember Rizzi MOVED THAT THE APPLICATION FOR A LOCATION TRANSFER, CORPORATION, SERIES 7 LIQUOR LICENSE FOR FRY'S MARKETPLACE #665, SUBMITTED BY ROCKFORD CHAMPAGNE, BE RECOMMENDED FOR APPROVAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Vice Mayor WILSON SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

9. [17-340](#) Consideration of application for a location transfer, corporation, series 9 liquor store license for Fry's Marketplace #665 located at 150 East Old West Highway. The next step in the process is for the council to hold a public hearing on the application and forward a recommendation for approval or denial to the Arizona Department of Liquor Licenses and Control.

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

No: 0

City Clerk Kathleen Connelly stated this second item is also a public hearing.

Mayor Serdy opened the public hearing on the series 9 liquor license. There being no one wishing to speak, he closed the public hearing and reopened the item to council discussion. There being no further discussion, he called for a motion.

Councilmember Waldron MOVED THAT THE APPLICATION FOR A LOCATION TRANSFER, CORPORATION, SERIES 9 LIQUOR LICENSE FOR FRY'S MARKETPLACE #665, SUBMITTED BY ROCKFORD CHAMPAGNE, BE RECOMMENDED FOR APPROVAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL.

Vice Mayor Wilson SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

I. OLD BUSINESS

None.

J. NEW BUSINESS

10. [17-344](#) Presentation, discussion and consideration of approval of Resolution No. 17-24 approving the submittal of applications from the City of Apache Junction to the Gila River Indian Community State Shared Revenue Program for Fiscal Year 2017-2018.

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

No: 0

Grants Administrator Heather Patel briefed the council on the item.

City Manager Bryant Powell stated the philosophy of staff is to do all we can to request grants and do as much as we can for Heather and Roger. This is great work and he thanked Heather.

Mayor Serdy called for a motion.

Councilmember Barker MOVED THAT RESOLUTION NO. 17-24, A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING THE SUBMITTAL OF A GRANT APPLICATION TO THE GILA RIVER INDIAN COMMUNITY FOR PROPOSITION 202 FUNDS FOR THE SENIOR TRANSPORTATION PROGRAM, BE APPROVED.

Vice Mayor Wilson SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

11. [17-347](#) Presentation, discussion and consideration of approval of Resolution No. 17-25 approving the submittal of applications from the City of Apache Junction to the Gila River Indian Community State Shared Revenue Program for Fiscal Year 2017-2018.

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

No: 0

Grants Administrator Heather Patel briefed the council on the item.

Mayor Serdy called for a motion.

Councilmember Rizzi MOVED THAT RESOLUTION NO. 17-25, A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING THE SUBMITTAL OF A GRANT APPLICATION TO THE GILA RIVER INDIAN COMMUNITY FOR PROPOSITION 202 FUNDS FOR THE FIT FAMILIES PROGRAM, BE APPROVED.

Councilmember Barker SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

12. [17-346](#) Presentation and discussion on proposed cases PZ-13-16 and SD-1-16, a request by MHP #7 LLC, Keith VanderHout, President, represented by Charles Huellmantel and Lauren Proper-Potter of Huellmantel Affiliates, to rezone the existing Boardwalk Estates Manufactured Home Park, located at 2200 N. Delaware Drive, from MHP (Manufactured Home Park) to RS-7M/PD (Medium/High Density Single-family Detached Residences, Conventional or Manufactured Homes, by Planned Development), for the purpose of converting the 20-acre property from a rental-space manufactured home park to a platted subdivision with lots available for individual ownership.

Senior Planner Rudy Esquivias briefed the council on the item.

Mayor Serdy asked if this is for discussion only tonight. The applicants cannot answer any questions tonight. They will have to come back later.

Councilmember Waldron commented an earlier slide showed the city and applicant agree on most of the conditions for approval. He asked if that is because of the setback changes.

Senior Planner Rudy Esquivias stated it has been a long process. Their original narrative did ask for different setbacks. There was also a question about identifying lots that may be nonconforming, the building heights and at first they did not want to build a wall. As they have worked through the process and the planning and zoning meetings, he believes the applicants are now in agreement with all of staff's recommendations. That statement was probably from a few weeks ago when they had reached agreement on some of these items.

Councilmember Rizzi commented she has known a few people that live there. He is saying these are rentals, they are not owned. She asked if it is the mobile homes that are owned but they are renting the property.

Senior Planner Rudy Esquivias stated they are renting spaces. Some of the people in there, about 40%, own their own home on a rental space. The other 60% of the homes are owned by the property owner who owns the property. There

is a mix of MHP owned units and individually owned units.

Councilmember Rizzi commented they have talked before about trying to get away from mobile home parks and trying to have more stick built homes. She asked why they would not want that in here. She asked why it would not be his recommendation if someone wanted to put a stick built home in here.

Senior Planner Rudy Esquivias stated they are not recommending against that. They are leaving that open. He believes they would be in favor of having conventional homes in there. He does not know if it makes sense for the market. He is not going to stop anybody from building a nice, little house there.

Councilmember Rizzi commented she must have misunderstood. It is kind of a weird market.

Senior Planner Rudy Esquivias stated it is unusual.

Councilmember Rizzi commented she thought he was saying that staff was recommending against the stick built.

Senior Planner Rudy Esquivias stated they are not recommending against them.

Councilmember Evans asked if this is on the sewer system or on septic.

Senior Planner Rudy Esquivias stated it is going to be on sewer. It presently is on sewer. He does not know how they are going to bill it, whether it is by billing the homeowners association, a master meter or something else. It is the same thing with the water. He does not think they are proposing any individual structure to individual lots. That is probably a better question for the applicant. It is on sewer and under Arizona Water Company jurisdiction.

Councilmember Evans commented one meter for the water.

Senior Planner Rudy Esquivias stated if this was a subdivision being constructed today, absolutely. However, they are going to deal with the existing development. It is something they are working out with the individual

utility companies.

Councilmember Evans commented Silver King is MHP #7, the limited liability corporation that the land is titled under. Silver King Corporate is the same person. They are just under different entities. They own 66 of the units. If they set up a homeowners association, they are going to have more than 60% of the vote. The mobile homes that are owned are all personal property on rented lots. She asked if the city will get sales tax on those when they are sold to individuals.

Senior Planner Rudy Esquivias asked if she meant on used mobile homes.

Councilmember Evans commented that is correct.

Senior Planner Rudy Esquivias stated he did not know.

City Clerk Kathleen Connelly stated she had told them earlier tonight that she was not sure on the resale of a mobile home.

City Manager Bryant Powell stated they can certainly find out and get back to them.

Councilmember Evans commented the goal is to turn these into home ownership. Right now the website shows there are four homes for sale. She asked if they are already being notified that this is going to turn into a subdivision and not be a park.

Senior Planner Rudy Esquivias stated that is one of the more important questions the planning and zoning commission asked. They asked if all of these people have been notified and know what is going on. The applicants assured us they have.

Councilmember Evans commented these are ones that are currently for sale on a website. She asked if those people are being notified that their lot is going to cost them "x" amount of dollars. If they buy the house their lot rent is going to be "x" amount of dollars. Whenever this turns into a subdivision then it is going to be "x" plus dollars. Someone is buying something that is going to turn around and have a homeowners association fee that, especially if it is a

single-metered complex for both water and sewer, is going to be significant. When you start adding in the paved, privately owned streets, it is going to be an expensive homeowners association. Even if the current residents are notified, that homeowners association fee is still an unknown factor. She asked how this works as far as a resale in a subdivision. An application for a subdivision reform has to go to the Department of Real Estate before the CCR's, the rules and regulations, and the homeowners association take over. She asked timewise, how that goes along with our rezoning. Not that this has never happened to the city before, but if they rezone this and it immediately gets sold it may not happen the way it is supposed to happen. This is owned by a limited liability company. The city got burned on a property within the city that was owned by a limited liability company and because they went defunct it then became a city problem with flooding. One wash goes through that property. She asked how the city is going to indemnify itself against any issues. She asked how the city would protect itself so that it does not get involved in a lawsuit if we allow it to become a subdivision having private streets and there is a flood.

City Attorney Joel Stern stated all the city would be doing is rezoning the property. The city does not own the property and would not be responsible for indemnifying anybody.

Councilmember Evans asked how the city got involved in the lawsuit on Silver. The city never owned that property.

City Attorney Joel Stern stated that is not on the agenda. However, when there is an eminent domain or takings case, it depends on how you plead your complaints. You can allege negligence on the part of the building official, zoning person or on the engineering division that looked over the plan. It depends on how you plead the case and what judge you get.

Councilmember Evans commented she guesses because of the wash they do not sue the property there because the other problem is also a flood hits you.

City Attorney Joel Stern stated that issue started in 1970 when that subdivision was built. This one is a little different. He does not believe this is a FEMA wash.

Senior Planner Rudy Esquivias stated that is

correct. This property was built under fairly recent standards. It is not like the example she cited that was built back in the '70s when the county probably did not have any standards. There is a drainage channel for the three streets here that empties into a drainage channel on the west side of the property. The lower areas and some of the areas above drain into the retention basin. There are no developments in the city that can account for a hundred year storm. They are basically designed for 10 or 24 hour storms. There is also a wash that comes in offsite and it is being channeled to a certain area where it will go down the channel. There is the historic flow coming in from the north and there is the onsite retention which is already designed. Our development services engineer is not proposing the retention basin be made any deeper or anything like that. It just needs to be cleaned out and the wash maintained. Every once in a while the homeowners association will have to clean out the silt and the weeds. As far as drainage is concerned, this is probably built to a more decent, current standard than other developments within the city.

Councilmember Evans asked if the mobiles come in single-wide and double-wide. She asked if there are any restrictions on the smaller lots.

Senior Planner Rudy Esquivias stated there are. Not every lot will be able to accommodate a double-wide. Not every lot will be able to take a seventy-footer or an eighty-footer. There are differences in some of the lot widths and lot sizes. A buyer is going to have to be aware and inform themselves that this lot is not a double-wide lot.

Councilmember Evans commented they are satisfied to the point that what units are on the existing lots meet our setbacks.

Senior Planner Rudy Esquivias stated he believes most of the units meet setbacks. There are about a half dozen units that do not meet setbacks. There were awnings constructed after the fact and that kind of thing. That is why they have the condition in here that at the time of replacement they need to recognize there are some of those. They can hopefully work with the property owner or the homeowners association to resolve some of those setbacks at the time of new construction or mobile home replacement. There are some nonconforming.

Councilmember Evans commented they are not

requiring them to bring them into compliance.

Senior Planner Rudy Esquivias stated they are not doing that to anybody at this point.

Councilmember Evans commented it is a confusing situation as far as we are almost doing it but they are changing it. She does not understand the part about having site built homes. She asked what the advantage is to the owner to change this since the owner owns over 60% of the units that are already there.

Senior Planner Rudy Esquivias stated that is a question for the applicant. He has not gotten a definitive no from them on mixing conventional and manufactured. They do not have any plans to build any homes in there but they are not proposing to preclude any should that opportunity come along, unless he tells us something different at the public hearing coming up in a couple of weeks. That question is still up in the air.

Councilmember Evans asked the city clerk to check on the tax for the resale of mobile homes.

City Clerk Kathleen Connelly stated she would.

Councilmember Evans asked that she also check to see if the rental licenses are up do date.

City Clerk Kathleen Connelly stated they would need to be licensed and paying tax for any of the lots that are being rented and the same for any of the units that are being rented. She cannot share that with her but they can check on it.

Councilmember Struble commented he just wanted to follow up on the sewer. That is a big deal. If an individual lot will have to hook up to the sewer that is an added expense as to how it is all run through it. He thinks it said that the water is on a main meter but each lot is then metered separately so they can tell who pays what. There is only one entrance to the park right now on Delaware. He asked if that is an issue for emergency reasons or anything like that where they may need to have a second entrance.

Senior Planner Rudy Esquivias stated they did route, like they do with all subdivisions, to the police and

fire personnel. They did not express any concerns about the main entrance. The main entrance is actually pretty wide. But he is correct that there is not a secondary exit point but he has not heard any concerns from emergency personnel.

Councilmember Struble commented if it was a brand new subdivision we would be.

Senior Planner Rudy Esquivias stated that is correct.

Councilmember Evans commented she had a question about the stipulation on no mobiles over 10 years old being brought in. She asked how that would be regulated.

Senior Planner Rudy Esquivias stated in every permit application received they need to list the serial number and the age of the manufactured home. It would be on planning to make sure they pay attention to that condition and apply it evenly.

Councilmember Struble commented right now they will be platted for 115 lots. He asked if someone would have to come in and get a rezoning if they wanted to build a stick built house and put it on two of the lots. He asked if that would be a county issue.

Senior Planner Rudy Esquivias stated that question has come up before and in other cases where people have proposed that the city has recommended a planned development amendment because, as they learned in one example, it quickly becomes the haves and have nots. This was platted in a particular manner with a particular number of lots offered. If they want to have an 8,000 square foot lot why not buy an 8,000 square foot lot somewhere instead of trying to retrofit what has been approved.

Councilmember Struble asked who would go through that process, the person trying to buy the place or some other.

Senior Planner Rudy Esquivias stated it would come to their attention at the time of the permits. Hopefully somebody does their homework and calls them before they propose to do that.

Mayor Serdy commented this was for discussion only so they can ask questions of the applicant at the public hearing.

Councilmember Waldron commented he has a question for Rudy that he may be able to ask the applicant about. He is concerned about the fact that the limited liability company owns 60% of this development. If they get a homeowners association they can control the voting against all the residents. He would like the applicant to address that and how they are going to handle the homeowners association and the voting on items within the park. He can see with them holding 60% of the property that they would virtually run the homeowners association.

Senior Planner Rudy Esquivias stated normally homeowner association rules would have language that says at the point where they sell a certain number lots, whether it be 60% or 70% or maybe 51% of the lots, then control goes over to the homeowners association and the underlying property owner becomes a minor voting member at that time. They will hopefully have some draft CCRs within the next couple of weeks.

Councilmember Waldron commented he would like to see them.

City Manager Bryant Powell stated this is a rezoning. He has seen this type before as in Jacob's Ranch. Jacob's Ranch started out as a certain method. They also had the KB Homes that had a certain zoning. He appreciates the council working through this issue. It is an incremental change. They are not necessarily getting stick built and he knows that is a goal. They are getting some improvements to the public area. They are getting some good things in that arena. They look forward to working with the applicant to improve this area.

Mayor Serdy closed the discussion with no further comments and moved on to the next item.

13. [17-331](#) Discussion on Ordinance No. 1449, amending the City Tax Code by changing the fee for the city transaction privilege tax license to \$2.00 annually from the current \$50.00 annually. If approved, this change would be effective December 1, 2017. Discussion only. Public hearing and action scheduled for September 19, 2017.

City Clerk Kathleen Connelly briefed the council on the items.

Councilmember Barker commented the \$2.00 fee is in place of the \$50.00 fee that the businesses pay to the

Arizona Department of Revenue.

City Clerk Kathleen Connelly stated that taxable businesses pay to Arizona Department of Revenue.

Councilmember Barker asked if businesses on December 1 will have to renew their transaction privilege tax license with Arizona Department of Revenue on December 1 in changing this to a \$2.00 fee and having it take effect on December 1, 2017.

City Clerk Kathleen Connelly stated it is not renewable until January 1, 2018. A current city transaction privilege tax license runs for all of 2017.

Councilmember Barker commented December 1 would be for new businesses coming in.

City Clerk Kathleen Connelly stated that is correct. She continued with her briefing.

Councilmembers Struble commented on page 3 under merchandise in Chapter 8, it says used objects, wares, goods, commodities and personality.

City Clerk Kathleen Connelly stated personalities are personal items. Some of these words she thought were very archaic and she wanted to pull them out but when she looked them up, that is the word that is used.

Councilmember Struble commented he was trying to figure out how one sells a personality. She also added city business days. He asked if there is a definition of what a city business day is.

City Clerk Kathleen Connelly stated those are the days in which the city is open and transacting business.

Councilmember Struble commented we are a city so technically we are open 24/7. He is wanting some clarification here.

City Clerk Kathleen Connelly stated previously it did not take into account the 4/10 work day. She thinks it just said city calendar days.

City Manager Bryant Powell stated he thought it just said days.

City Clerk Kathleen Connelly stated this was done to clarify, just as they did with health and human services contracts. We are identifying this is the city's timeframe for working and you have to get it into us during those normal 4/10s. It also explains holidays.

Councilmember Struble commented if they change it somewhere down the road to 5 eight hour days we would need to change this.

City Clerk Kathleen Connelly stated we would still be okay.

City Manager Bryant Powell stated it still would be a city business day.

Councilmember Struble asked if they need to put a definition of what a city business day is or would it screw some things up.

City Attorney Joel Stern stated if he would feel more comfortable in having one in there they could.

City Clerk Kathleen Connelly stated then they would have to change the code.

Councilmember Struble commented he is a business owner. He also works with nonprofits. Business owners have a different idea of what a business day is. They want to make sure there is an understanding among the people when they see this that it is for a four day work week in the city clerk's office as opposed to the six days that a business owner works or the seven days. He does not know how that needs to be clarified or set up. It is a big issue for somebody coming in.

City Clerk Kathleen Connelly stated the intent in clarifying the city working days was so that an event sponsor that has to give us a list of participants is not having to rush to get it to us by a particular time. We are closed Friday, Saturday and Sunday. They do not have to get it to us until the following Monday or sometime after the weekend.

Councilmember Struble commented he just wants to make sure everyone is on the same page.

City Clerk Kathleen Connelly stated what she could do is to put it in the brochures and on the application. If they put a definition in the code it might force another code change should we ever change those working days again.

Councilmember Struble commented it could actually be handled on the application.

City Attorney Joel Stern stated they could change the hours or just say as amended by the city but that does not help the business owner. They would probably have to change the ordinance.

City Manager Bryant Powell stated putting it on the pamphlet probably is the best way.

Councilmember Struble commented he does not want it to come up later on when a business owner or event planner comes in and says their business week is five days a week, asks what is going on here because they thought they had more time.

City Clerk Kathleen Connelly stated she can make a point of putting that on the appropriate form and the brochures.

Councilmember Struble commented on page 6 she talks about who has to apply for a business license. Using himself for an example, he has a limited liability company but he has two businesses running under it. She used the example of a blacksmith and another random thing. She said it would be determined by a state statute. For tax purposes, those businesses will be done on one tax return.

City Clerk Kathleen Connelly stated at present. They will be on one tax return but have different codes.

Councilmember Struble commented they have different codes. But say they have a hotel that rents rooms and they also have a gift shop. He asked if those are two different things.

City Clerk Kathleen Connelly stated they could be if, for instance, the gift shop is a franchise that is not really part of the hotel. It is a leased space.

Councilmember Struble asked what would happen

if the hotel owner owns and operates both the hotel and the gift shop.

City Clerk Kathleen Connelly stated they would look at those on an individual basis. If they are related or one makes sense to be part of that, they would look at that as one business license. However, it would be listed separately on the tax return because it would be coded different.

Councilmember Struble disagreed with her.

City Clerk Kathleen Connelly stated the rental of the rooms.

Councilmember Struble asked if she was talking sales tax or income tax.

City Clerk Kathleen Connelly stated sales tax. She does not do income tax.

Councilmember Struble commented so it is on sales tax issues where she says they will have different codes because of the rental of the rooms.

City Clerk Kathleen Connelly stated there is the rental of the rooms and the sales of trinkets.

Councilmember Struble commented it will be up to the city clerk's office or staff to determine the nature of this.

City Clerk Kathleen Connelly stated which we do now for the nontaxable businesses. There are some instances from a couple of years ago where a particular business sold travel tours and at the same time they did Western Union. Two very different operations and not necessarily the same. In that case they were required to get two separate licenses.

Councilmember Struble agreed. It is just that a business owner has a different idea on the length of business days. His concern is that they do not think of them as two different entities or things. As long as in the future they are not going to get dinged because someone determines they should have had it and then they were not.

City Clerk Kathleen Connelly stated they will not be going backwards.

Councilmember Struble commented on page 7, the second paragraph says the exact nature of the business. That is a very specific word to describe a business.

City Clerk Kathleen Connelly stated she was not quite sure what he meant by that.

Councilmember Struble stated for exactly, a specific word to describe a business.

City Attorney Joel Stern asked if he would like to supply a more over-all word.

Councilmember Struble commented he has an accounting/tax/business consulting number of things he does. He asked how exact they need to be.

City Clerk Kathleen Connelly stated that would be sufficient.

Councilmember Struble commented what if he just said accounting. It seems kind of too restrictive on how to get the application done. There again they will be trying to determine what the businesses are and how many licenses we will get out of them by using the term exact.

City Clerk Kathleen Connelly stated they would have to look at those particular ones. This is from pre-2007.

City Attorney Joel Stern stated instead of exact they could use specific.

Councilmember Struble commented that seems to be about the same thing. Exact seems very specific.

City Clerk Kathleen Connelly stated if they do not require the license applicants to be very specific there are those who would add things on that are perhaps not legal under zoning.

Councilmember Struble commented that is true.

City Clerk Kathleen Connelly stated that is the other side.

Councilmember Struble commented but then they

could add that on anyway later. They can come in and get a license for doing whatever.

City Clerk Kathleen Connelly stated in which case it calls into question what they got approved for under the zoning. This is something they see probably more often than would be good.

Councilmember Struble commented it just seems very specific.

Mayor Serdy commented this is discussion only. He asked if they can come up with questions to give to her during the week.

City Clerk Kathleen Connelly stated this is discussion only but it is advertised for their next meeting for adoption. If they do not adopt it on September 19, all of the deadlines to make the December 1 effective date will start over again.

Councilmember Struble commented he only had about five more questions. This is what they are here for, to get the public out there and hopefully there are people listening because it concerns them. He is going to ask all the questions he wants to ask. He asked if she will be notifying business owners that their license is up for renewal.

City Clerk Kathleen Connelly stated they already have a group of nontaxable businesses who are on a rotating basis. The business license is 12 consecutive months from the date of issue if not tied to the calendar year. Those folks are already in the process. The people who have the current transaction privilege tax license, all of which expire on December 31, will be notified by the city should the council approve this.

Councilmember Struble commented he understands that. He is talking about the renewal of the business license every year.

City Clerk Kathleen Connelly stated that is correct and it will be 12 months from the month of issue and we will have a large group of folks who now have the transaction privilege tax license who will have a December 31 expiration date.

Councilmember Struble asked if the city is going to make notifications to the business owners that their license is going to be coming up for renewal.

City Clerk Kathleen Connelly stated absolutely.

City Manager Bryant Powell stated we do that right now.

Councilmember Struble asked how far ahead they do that.

City Clerk Kathleen Connelly stated should the council adopt this, on September 19 we would be letting those businesses know sometime in the month of October. We would be letting them know two things. First, the change for the city business license and second the change in the tax license.

Councilmember Struble commented he means in the future, for years to come.

City Clerk Kathleen Connelly stated it is on a rotation.

City Manager Bryant Powell asked in general.

City Clerk Kathleen Connelly stated it is at least 30 days in advance. They are told when as part of the renewal. They are told when it is due and they give them three options. They accumulate penalties if they fail to pay, and after the third one it is referred to Joel's office.

Councilmember Struble commented on page 11 she has a whole list of different fees that are associated with different activities.

City Clerk Kathleen Connelly stated those are for permits.

Councilmember Struble commented the second from the bottom says each employee. He asked what that means.

City Clerk Kathleen Connelly stated that is for a sexually oriented business. It is not for all of the hotels and motels.

City Attorney Joel Stern stated he put that in in 1998.

Councilmember Struble commented it pertains to the line above.

City Clerk Kathleen Connelly stated that is correct.

Councilmember Struble asked if that needed to be clarified.

City Clerk Kathleen Connelly stated it is not all of the other ones above it.

Councilmember Struble asked if it needed to be indented.

City Attorney Joel Stern stated it is how the city clerk's office interprets it. He thinks it is fine.

Councilmember Barker commented they could say each employee of the sexually oriented business.

City Attorney Joel Stern and City Clerk Kathleen Connelly agreed they could do that.

City Clerk Kathleen Connelly stated they can do each employee of the above business.

Councilmember Struble commented they pretty much answered the other questions that he had when she talked. Part of it is that somebody goes through and they have their business license and then some time through the years down the road they do not renew it and we got this process of notifying them and penalties and everything. They get to a point, he could not recall the time frame, where it is revoked. A year or two later that same person comes to the city and wants to apply for another business license under a different limited liability company but it is the same person. He asked if there is a way that the city tracks that.

City Clerk Kathleen Connelly stated there is. It actually says in here that you do not get another license until your past fees have been resolved. We do personally contact some of these businesses and ask if they are still in business. If they say no our records will show no.

Councilmember Struble commented that happens a lot with what he does for a living.

City Clerk Kathleen Connelly stated absolutely.

Councilmember Struble commented it is because people get into trouble with a limited liability company or a corporation or whatever it is and they think they can rectify their issues by just going out and opening up another limited liability company and all their other problems are going to go away. He wanted to make sure we can track that.

City Clerk Kathleen Connelly stated that is why they actually see this in the code because we have had that happen where people just ignore our renewal notices and then come back in after what they think is the appropriate length of time and want to open up a new business. It is okay but they have to pay what is due.

Councilmember Struble commented they want to be business friendly obviously but we want to make sure that it is an even playing field for everybody and those kind of things happen.

City Clerk Kathleen Connelly thanked him for saying that because the majority of our businesses pay on time. It is not fair for them to do that and have somebody else not do so.

Councilmember Struble commented 90% of the people out there follow the rules and do everything and what we try to do is get the people who want to circumvent them.

City Clerk Kathleen Connelly agreed.

Mayor Serdy asked for the next step.

City Clerk Kathleen Connelly stated she is not getting any interest in inserting the word "activities" for events and she thinks the nonprofits will thank the council for that. She will make the change on page 11 to clarify that per employee is just for that sexually oriented business. The next step is to bring all these back on September 19. If they are adopted that night then we start the notification process. She has already sent out sample forms for other departments to look at. Then we go forward.

City Manager Bryant Powell stated this is a culture thing for our organization that we constantly evaluate and look at new processes. This is a quality opportunity. We changed this before and we will change it here. For him and staff, they have set a goal for what this would look like if this were fixed. There are some things in here we are trying to work on and improve processes. A year from now we will see how it goes. That way they can say how it goes and we will be reporting back. We look forward to having feedback as we go from our businesses and our nonprofits.

Mayor Serdy closed the item with no further comments and moved on to the next item.

14. [17-333](#) Discussion on Resolution No. 17-21: declaring as a public record that certain document on file with the city clerk entitled "2017 amendments to the Apache Junction City Code, Volume I, Chapter 8 Business". This resolution declares the proposed changes to Chapter 8 of the city code with regard to businesses, business licenses, events and mobile food vendors as a public record. Discussion only. The resolution will be part of a public hearing scheduled for the September 19 meeting.
15. [17-328](#) Discussion on Ordinance No. 1450, amending Apache Junction City Code Chapter 8 Business in the areas of business licensing, businesses, events and mobile food vendors to include applicable fees. As discussed at the July 17 work session and council direction at the July 18 meeting, these changes would restore the business license program as it existed prior to July 2007, would make changes to the events process and update requirements for mobile food vendors to meet county standards. Discussion only. Public hearing and action scheduled for September 19.

K. COUNCIL DIRECTION TO STAFF

16. [17-334](#) Direction to staff on 2017 annual board and commission appointments and reappointments procedure scheduled for September 19, 2017 and October 3, 2017.

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 Struble commented the application process has already passed.

City Clerk Kathleen Connelly stated that is

correct.

Councilmember Struble asked if the council would be able to have access to the applications prior to the Thursday before our meeting so that we can actually do some reviewing of them ahead of time or is that stipulated elsewhere.

City Clerk Kathleen Connelly stated we can give you those applications in advance of your council packet. She asked if everybody wants that or do they just want it as part of the packet.

Councilmember Struble commented he does not know how many there is going to be and how many will have to be reviewed if we get our packets on Thursday. The first round will be to review them on Monday and vote on them on Tuesday.

City Clerk Kathleen Connelly stated that is correct. Your first round would be Board of Adjustment, Library Board, Parks and Recreation Commission and Planning and Zoning Commission. They would interview them on Monday and make the appointments the next immediate night on Tuesday. We used to separate them and it became a very lengthy process and confusing. That is why they are done back to back now. Two weeks later they will look at the balance of them.

Councilmember Struble commented if there are a number of applicants it takes time to read through them and come up with any questions that we have. He asked if it is possible to get those ahead of time.

City Clerk Kathleen Connelly stated we can get those to you.

Councilmember Struble commented he would appreciate it. He likes to read.

City Clerk Kathleen Connelly asked if everybody else wanted them all in advance or if they just want them in the book.

The other members of the council just wanted their information in the book.

City Clerk Kathleen Connelly stated only Councilmember Struble wants them ahead of time.

Councilmember Rizzi commented she wanted to mention, although she is not necessarily in favor of this, there was one time they discussed the possibility of appointing the same night that we interview. She asked if that is possible.

City Clerk Kathleen Connelly stated you interview on Monday nights at the work session. It is not a voting session so they would have to have a special meeting in conjunction with your work session in order to make the appointments.

Councilmember Rizzi commented she thinks one of the councilmembers had mentioned it in our previous discussion and the concern was that we had people coming two nights in a row.

City Clerk Kathleen Connelly stated they do not have to. We let them know they do not have to be here the night of the council vote on the appointments. Some of them come both nights, some of them do not come either night.

Councilmember Struble commented on the night of the vote they do not have any more discussion other than among themselves.

City Clerk Kathleen Connelly stated that is correct. We will do it the same way we have done in the past. It will not be a consent agenda item. It will be new business and there will be separate votes for each individual for each board and commission.

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

Councilmember Waldron MOVED THAT THE FOLLOWING DIRECTION BE GIVEN TO STAFF REGARDING THE ANNUAL BOARD AND COMMISSION APPOINTMENTS AND REAPPOINTMENTS PROCEDURE SCHEDULED FOR SEPTEMBER 19, 2017 AND OCTOBER 3, 2017: THAT ALL APPLICANTS BE CONTACTED FOR INTERVIEWS INCLUDING THOSE SEEKING REAPPOINTMENT; AND THAT THE BOARD OF ADJUSTMENT, LIBRARY, PARKS AND RECREATION AND PLANNING AND ZONING BE INTERVIEWED AND APPOINTED AT THE FIRST SESSION AND THE REMAINING BOARDS AT THE SECOND SESSION.

Councilmember Rizzi SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

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

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

No: 0

Vice Mayor Wilson MOVED THAT AN EXECUTIVE SESSION AT 6:00 P.M. AND A WORK SESSION AT 7:00 P.M. BE HELD ON MONDAY, SEPTEMBER 18, 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, SEPTEMBER 19, 2017, IN THE CITY CONFERENCE ROOM.

Councilmember Evans SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

17. [17-329](#) Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Monday, September 18, 2017.
18. [17-330](#) Executive Session at 6:00 P.M for Tuesday, September 19, 2017. Other meetings if necessary.

M. CALL TO PUBLIC

Mr. David Coward, 9414 E. Mogollan Trail, Gold Canyon, addressed the council regarding the proposed name change for a portion of US 60.

N. ADJOURNMENT

Mayor Serdy adjourned the meeting at 8:53 p.m.