



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, April 3, 2018

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 April 3, 2018, 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

Others Present: Public Information Officer Al Bravo

D. CONSENT AGENDA

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

No: 0

Councilmember Barker MOVED THAT THE CONSENT AGENDA BE ACCEPTED AS PRESENTED; AND THAT APPROVAL BE GIVEN TO RESOLUTION NO. 18-04, A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO AMENDMENT NO. ONE TO THE INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA FOR THE WINCHESTER ROAD SIDEWALK IMPROVEMENT PROJECT; AND

THAT APPROVAL BE GIVEN TO RESOLUTION NO. 18-09, A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, ADOPTING A CITY VISION AND MISSION STATEMENT.

Councilmember Waldron SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

1. [18-137](#) Consideration of acceptance of agenda.
2. [18-138](#) Consideration of approval of minutes of regular meeting of March 20, 2018.
3. [18-147](#) Consideration of approval of Resolution No. 18-04 on an intergovernmental agreement with Arizona Department of Transportation for the Winchester Road Sidewalk Improvements.
4. [18-131](#) Consideration of approval of Resolution No. 18-09 to adopt a vision and mission statement for the City of Apache Junction.

E. AWARDS, PRESENTATIONS AND PROCLAMATIONS

5. [18-108](#) Recognition of Apache Junction High School's student council for their hard work within their school and in the community.

City Manager Bryant Powell recognized the student council of Apache Junction High School for their hard work within their school and in the community.

6. [18-144](#) Formal presentation by mayor of certificates of graduation to the graduates of the 20th Citizen Leadership Institute (CLI).

Public Information Officer Al Bravo and Mayor Serdy presented certificates of graduation to the graduates of the 20th Citizen Leadership Institute.

7. [18-118](#) Proclamation designating the week of April 16 through April 20, 2018 as Week of the Young Child.

Mayor Serdy read a proclamation designating April 20, 2018 as Week of the Young Child and presented it to City Manager Bryant Powell.

City Manager Bryant Powell commented on the First Things First program. He introduced Beverly Gomez Arriaga from First Things First.

Ms. Beverly Gomez Arriaga, the parent awareness and community outreach coordinator for the Pinal region, commented about the program.

City Manager Bryant Powell stated the fun van was provided by one of the grants from First Things First.

F. ANNOUNCEMENT OF CURRENT EVENTS

8. [18-125](#) Announcement of current events from mayor and councilmembers.

Vice Mayor Wilson announced tomorrow evening at the Multi-Gen Center at 7 p.m. there will be an introduction to the transportation plan for anyone that uses a bike, walks, rides horses or uses any of the trails.

Vice Mayor Wilson commented his wife's miniature horse has been getting training to be a service horse and he will be tested Saturday morning for graduation. They will also be testing service dogs at Greyhound Park.

Councilmember Evans announced artist Anne Coe has donated about 150 posters regarding the ladybug release at Earth Heart Park.

Councilmember Evans announced tomorrow at Central Arizona College there will be a county-wide youth forum to help students help others of the same age with domestic violence, suicidal tendencies and other problems.

Councilmember Evans announced former chief Jerry Monahan is now in charge of End Violence Against Women International and they are having a golf scramble at Mountainbrook on April 14.

Councilmember Barker commented the Blues and Brews Festival was fantastic. It was packed and the music was great.

Councilmember Barker commented she wanted to throw kudos to the library staff for the library con. The library was packed with people in costume.

Councilmember Barker commented she gave kudos to parks and recreation for the marvelous Easter Egg Hunt on Saturday.

Councilmember Rizzi commented she attended the Easter event with the drug coalition. She thanked the parks and recreation staff and all the volunteers. There were thousands of people at the event and it went smoothly.

Councilmember Rizzi commented she recently spent some time with local schoolteachers and learned about RedforEd. She requested everyone support the teachers.

Councilmember Struble commented the Easter Egg Hunt was amazing.

Councilmember Struble commented he had lunch last August with a crew training group for the high school student council and sixth graders. They are very wise for young people. He asked what they wanted for the city and they gave him some great ideas.

Mayor Serdy announced April 8-14 is National Public Safety Telecommunicators Week. They now can receive text 9-1-1 calls.

Mayor Serdy announced on April 14 at Lost Dutchman Park is the Picture Perfect Winetasting Event.

Mayor Serdy acknowledged the Blues Festival and gave kudos to the chamber workers there for taking abuse on the running out of the beer being supplied to the event that was not their fault.

Mayor Serdy thanked parks and recreation for a very smooth Easter Egg Hunt.

Mayor Serdy thanked John Underwood, a volunteer part-time employee who makes everything run smoothly.

G. CITY MANAGER'S REPORT

9. [18-124](#) City manager's report.

City Manager Bryant Powell commented on the Arizona Department of Transportation roundabout project at Superstition and North Apache Trail, text 9-1-1, the newly painted Paws and Claws van and the Positively Ghostly Event.

H. PUBLIC HEARINGS

10. [18-139](#) Consideration of application for an interim permit, person transfer, individual, series 12 liquor license for Pho Ever located at 300 S. Phelps Drive. This item was continued at the request of council for additional information from the March 20, 2018 council meeting to the April 3, 2018 council meeting. 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 was not present. 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 Barker requested the police chief come up and for someone to explain a handout.

City Clerk Kathleen Connelly stated one of the unknowns about this business has to do with this particular list of liquor licenses. In their packet is part of what was received from the state. There is a copy of the first liquor license that was issued to the owner of Mongolian Grill. That was issued in March 2017 and will expire August 31, 2018. Please note the number for that license. If you look at number two right below it, there is the same license number for an interim permit issued to Mr. Ha for Pho Ever. It was issued on February 13, 2018 and expires May 29, 2018. The third listing is also for a license under that same number. This is from the state liquor website and all it says next to it is active. It was issued to Pho Ever with no name. The issue date is March 3, 2018 and it also expires May 29, 2018. There is a fourth one. If they look in their packets,

that license number is attached to the application in their packets. It says pending. It was issued to Mr. Ha for Pho Ever. It does not say issue date, it says status date of February 13, 2018. That one also has an expiration date of May 29, 2018. She cannot explain this and does not want to guess. This is something the state is going to have to deal with. Maybe this is okay for them in their internal mechanism but she cannot make any sense of it.

Councilmember Evans commented we do not know how the number changed.

City Clerk Kathleen Connelly stated she did not even want to venture a guess. She could probably be very wrong.

Mayor Serdy commented it looks like they have several licenses now. We do not even know how that happened.

City Clerk Kathleen Connelly stated for the first and second ones, we have pictures of that license. Mr. Ha showed one to the chief and the chief sent a picture of that to me. The other one is in your council packet. Numbers three and four are on the state's website.

Councilmember Barker commented very weird.

City Clerk Kathleen Connelly stated she does not know what their procedure is.

Councilmember Barker commented especially the pending one with the status date in February and it is still pending.

Mayor Serdy asked the police chief if he could tell them any more.

Public Safety Director Tom Kelly stated he does not have much more to give them other than what he gave them the last time. A real quick synopsis is back in February of this year they had been informed the Pho Ever Restaurant was dispensing alcohol without a license. They looked into it and found it to be true. They passed the information on to the liquor commission. They, at that time, became aware of it and they gave them copies of their reports. Since the last time they talked to them, they have given him an interim liquor license so he can legally dispense alcohol. The last conversation he had with the agent that was handling the case was that he had until May 29 to resolve several other issues

he has with the liquor commission or he would not be operating under a valid liquor license any longer. There was some conversation about the restaurant being sold or in the process of being sold to another individual but he cannot verify the status on that. It has been moving back and forth between a couple of different hands. Mr. Ha is the current proprietor of the business right now. Supposedly the gentleman who owned it when it was the Mongolian Grill was in the process of selling it to another individual but they did not think it was going to make any money so the speculation is out there. The state has given him an interim license so he is operating. They issued him an interim license to dispense alcohol and to operate until the May date. At that time we will hopefully be informed of any other actions.

Councilmember Barker commented it sounds like the state is giving him x amount of time to clear up whatever problems they are seeing.

Public Safety Director Tom Kelly stated that is what it appears to be. Last time when they passed on it there was a conversation between the council members of a possible language barrier problem. Mr. Ha and he have spoken a couple of times and he has not had any real difficulties. You just have to speak a little slower than normal. Other than that, he has not had any issues on it. It appears that the state is giving him some time to resolve some other issues that have not been disclosed to us, whatever they may be, between the previous owner, their licensing agreement and some of the issues the state is aware of. The state is basically the one responsible for issuing a license and the enforcement of it. His department was just looking into it because it was brought to their attention.

Councilmember Barker commented they have this application in front of them that would overlap the interim license he has now. She is confused. That would be his fifth license were they to accept that. This is a very confusing case.

Councilmember Evans commented with the license that he has, because we had the information he was selling alcohol without a license, he has really had some form of a license since he took over.

Public Safety Director Tom Kelly stated he currently has a valid license to dispense alcohol.

Councilmember Evans asked where the current

criminal case for selling alcohol without a license stands.

Public Safety Director Tom Kelly stated that has been passed on to the state liquor commission to decide whatever they want to do with it.

Councilmember Rizzi commented the city council on liquor licenses is just a recommending board. The state makes the final decision. The council could say yes and the state could agree with us or say no. The council could say no and the state could say yes.

City Attorney Joel Stern stated that is correct. They would have to have a hearing if the council votes a recommendation of no.

Councilmember Rizzi commented the violations do not go through the city court where the violation is taking place. She asked if they are handled on a state level.

City Attorney Joel Stern stated there is a state liquor investigator. He does not know how many there are for the state but there is not very many. They file in Phoenix. It could also be an administrative hearing. It is not just criminal, it could also be civil.

Councilmember Rizzi asked if that makes it more difficult for us to check. It is not like our city court is handling this situation where we are communicating with the police department who can relay information to the city council. We do not know where these criminal charges lie right now.

City Attorney Joel Stern stated nothing has been filed with his prosecutor. He cannot tell them if it is a misdemeanor involved filed by the state investigator. He has no information on that.

Councilmember Rizzi commented that complicates things.

Public Safety Director Tom Kelly stated his department could have filed but the problem they had with it was like she articulated, that the state basically has the authority to grant the license or not, whether they approve it or do not approve it. They can ultimately say they will approve the license. They thought that with the information they passed on to the state it would seem to be cleaner to let them make the decision versus filing it in the city court and

have the city court find a criminal case against the individual. Since they already had an agent assigned to the investigation and he had been out there a couple of times, they thought it would be cleaner for him to have the information and they can decide what they want to do with it rather than tying up our local prosecutor to handle a case and whatever the finding might be on it.

Councilmember Rizzi commented she would be more inclined to leave it at the state level and let them handle this.

Vice Mayor Wilson asked if they can, instead of saying yea or nay on this, just say with all the unknowns involved they are passing this all on to the state for them to make a decision.

City Attorney Joel Stern stated that would probably be looked upon as a yes because they did not say no. They have 60 days from the filing date that they filed the application. If they do not take any action it is also seen as a yes. Then they would not have a hearing unless they wanted to have a hearing for themselves. There is a standard for what they have to do at the hearing. The capability, qualifications and reliability of the applicant must be shown at the hearing. Also, does the public convenience require that it is in the best interest of the community for issuing the license. There is case law on a lot of this. He has been to these hearings and they go through capability, qualifications and liability at least for general liquor licenses but they also do it for interim. If the council votes to take no action or to take no position, that will be deemed as basically a recommendation for approval.

Councilmember Rizzi commented a no vote would put it in the state's hands.

City Attorney Joel Stern stated a no vote would have them require a hearing.

Mayor Serdy commented a third possible motion is no action at this time.

City Attorney Joel Stern stated that is correct.

City Clerk Kathleen Connelly stated that will be considered a yes.

City Attorney Joel Stern stated it will be considered a yes vote but they could do that motion.

Councilmember Struble commented he is a little bit confused like Councilmember Barker. There are four licenses here. And he is apparently operating under those as far as they know. He asked why they are even being asked to do something if he already has a license to operate.

Councilmember Waldron commented there are actually only two licenses.

There was general discussion among the councilmembers about the licenses.

Councilmember Struble commented it seems like they are being asked to do something that the state has already made a decision on.

City Clerk Kathleen Connelly stated what they have been given is an interim permit and that is what they are looking at. The state would make the decision to have it become a permanent liquor license subject to violations and time frames.

Councilmember Struble commented if they do not do anything it is basically saying yes. If we choose to deny there will be a hearing and one of the councilmembers would probably be best to go down there and sit upon the hearing.

City Attorney Joel Stern stated he would take them down there.

Councilmember Struble asked if they would have to prove any of those three things that they talked about. They would just say what the council voted on.

City Attorney Joel Stern stated that is correct. If the recommendation is for no they are supposed to have findings. Those findings then go with the letter that the city clerk sends the director. The director gives that to the board and that is how it is supposed to work. Usually, though, when they have a councilmember there or a mayor they pay attention or the listen to the individuals more than a lay person like an attorney or a manager.

Councilmember Struble asked when does the

sixty-day period start on this, for the public's knowledge.

City Clerk Kathleen Connelly stated it has already started.

Councilmember Struble asked when.

City Clerk Kathleen Connelly stated the date is on the face of the application. It is sixty days from the day he filed it which was February 13.

Councilmember Struble commented so we are looking at April 13 which is next week. We have to take action here but he has a pending one so he can continue to sell liquor until May 29.

City Clerk Kathleen Connelly stated she does not know. He has at least two that it appears he can use to sell alcohol on an interim basis.

Councilmember Struble commented it is kind of like what are we doing here.

City Clerk Kathleen Connelly stated they are obligated by law.

Councilmember Struble commented he knows.

Mayor Serdy called for a motion.

Councilmember Barker MOVED THAT THE APPLICATION FOR AN INTERIM PERMIT, PERSON TRANSFER, INDIVIDUAL, SERIES 12 LIQUOR LICENSE FOR PHO EVER, SUBMITTED BY KHEIT HA, BE RECOMMENDED FOR DENIAL TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL DUE TO THE AMBIGUITY OF THE INFORMATION AVAILABLE CONCERNING LICENSING AND POSSIBLE CRIMINAL CHARGES.

Councilmember Rizzi SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

11. [18-128](#) Consideration of approval of Resolution No. 18-08 proposing a permanent adjustment to the 1979-80 base expenditure limitation of the City of Apache Junction. This resolution is required in order to place the permanent base adjustment question on the August 28, 2018 ballot.

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 city manager speak on the item.

City Manager Bryant Powell stated the applicant is all of them. This is a six-month process they have all been working on through their strategic planning efforts, your efforts with long term vision and the mission of the city, the position of the financial ability and the authority to govern as a local government. They have instructed and given direction to staff over time on this item.

Mayor Serdy opened the public hearing on the item. There being no one wishing to speak, he closed the public hearing on the item and opened the item to council discussion.

Councilmember Evans commented when she was on the website for the League of Arizona Cities and Towns she found they are offering a one-hour webinar on Friday on this very subject from 9:00 a.m. to 10:00 a.m. She asked if the League allows us to attach that to our website.

City Manager Bryant Powell stated they will look into that. They asked the League about this when they were first looking at home rule versus permanent base. Tom Belshe came out and did a special presentation for us. They have verified that it is the very same presentation he did for the council. This would be for everyone. They will see if they can get linked up and put it on the website. More information and education would be very good for this.

City Clerk Kathleen Connelly stated she registered. She checked with them politely today to see if she had missed the call-in number for the webinar and they stated they would get back to her. If they notice, it is not on there. It is by webinar but you usually have an access number. For some reason that is not out there yet.

Assistant City Manager Matt Busby stated he will add they can also find the date Tom Belshe gave that

presentation here and send a link via Granicus video stream. We can make that available. We can put it on our social media so if people are interested in watching they can.

Councilmember Barker commented the more information the better.

City Manager Bryant Powell stated they had their first opportunity when he and Vice Mayor Wilson presented it to a group. It is important to have dialogue until the end of August. As they say, you cannot sell a secret. They have to really, really help the community understand this is something they asked us to do. The state will continue to require annual budgets the same way they have always done, their revenues to expenditures match, and that this is an authority very similar to home rule to allow the city to have the authority if they ever wanted to bring in the sewer district or the water district under the umbrella of the city. They will need that ability, capacity or flexibility to have the expenditure higher.

Mayor Serdy commented this will be the most important move this council makes in the last several years. If you look at the cities that have passed it, it really helps them to be effective.

Councilmember Rizzi asked if getting this passed would be a savings where we would not have to continually go out and ask the community and put it on the ballot. She is sure there are costs to that and they have to educate the community.

City Clerk Kathleen Connelly stated something like this requires publication with a publicity pamphlet which includes not just this resolution but what is called a detailed analysis, a summary analysis and a bunch of other things, you have to solicit for pro and con arguments, all of which goes into the pamphlet in both Spanish and English, and there are other prerequisites for announcing where the polling places are and all of that has to be in that pamphlet. The one last year was 8.5 X 11, it has to go to every household where there is a registered voter and it costs about \$13,000.

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

Councilmember Evans MOVED THAT RESOLUTION NO. 18-08, A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, PROPOSING A PERMANENT ADJUSTMENT

TO THE 1979-80 BASE EXPENDITURE LIMITATION OF THE CITY OF APACHE JUNCTION, BE APPROVED.

Vice Mayor Wilson SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

I. OLD BUSINESS

None.

J. NEW BUSINESS

None.

K. COUNCIL DIRECTION TO STAFF

None.

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

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

No: 0

Councilmember Barker MOVED THAT AN EXECUTIVE SESSION AT 6:00 P.M. AND A WORK SESSION AT 7:00 P.M. BE HELD ON MONDAY, APRIL 16, 2018, 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, APRIL 17, 2018, IN THE CITY COUNCIL CONFERENCE ROOM.

Councilmember Waldron SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

12. [18-126](#) Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Monday, April 16, 2018.

13. [18-127](#) Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Tuesday, April 17, 2018. Other meetings if necessary.

M. CALL TO PUBLIC

Mr. Gil Cropper Sr., 577 W. Windsong, Apache Junction, addressed the council regarding April being National Adopt a Greyhound Month and thanked the city staff and police department for the great improvements to the city.

N. ADJOURNMENT

Mayor Serdy adjourned the meeting at 8:00
p.m.