



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, May 15, 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 17, 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 Struble 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
Development Services Director Larry Kirch
Assistant to the City Manager Anna McCray
Economic Development Specialist Elan Vallender

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

Mayor Serdy announced that before he calls for a motion on the consent agenda, they are going to move Item No. 10 before Item No. 9. He called for a motion.

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

THAT APPROVAL BE GIVEN TO RESOLUTION NO. 18-19, A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, COMMITTING LOCAL FUNDS AS LEVERAGE FOR FY 2017 COMMUNITY DEVELOPMENT BLOCK GRANT ("CDBG") STATE SPECIAL PROJECT ("SSP") APPLICATIONS; AND

THAT APPROVAL BE GIVEN TO RESOLUTION NO. 18-20, A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, PINAL COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE A LOAN AGREEMENT WITH APACHE JUNCTION VILLAS, LLC, REGARDING THE DEVELOPMENT OF APACHE JUNCTION TOWNHOMES GENERALLY LOCATED AT THE SOUTHEAST CORNER OF SAN MARCOS AND TEPEE STREET; AND

THAT ITEM NUMBER 10 BE MOVED TO FOLLOW THE CITY MANAGER'S REPORT.

Councilmember Evans SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

1. [18-232](#) Consideration of acceptance of agenda.
2. [18-233](#) Consideration of approval of minutes of regular meeting of May 1, 2018.
3. [18-224](#) Presentation, discussion, and consideration of proposed Resolution No. 18-19 committing local funds as leverage for the Fiscal Year 2017 State Special Project grant application.

4. [18-226](#) Consideration of proposed Resolution No. 18-20, authorizing the city manager to execute a loan agreement with Apache Junction Villas, LLC, regarding the 52 unit low income housing tax credit townhome project at the southeast corner of San Marcos Drive and Tepee Street. This loan agreement includes a promissory note and related documents which provide a zero interest loan of \$34,000 to Apache Junction Villas, LLC.

E. AWARDS, PRESENTATIONS AND PROCLAMATIONS

5. [18-149](#) Proclamation designating the week of May 20th-May 26th, 2018 as Public Works Week. Mike Wever, Public Works Director will be in attendance to accept the proclamation.

Mayor Serdy read a proclamation designating May 20-28, 2018 as National Public Works Week and presented it to Public Works Director Michael Wever.

Mayor Serdy recognized the Cactus Canyon Junior High Student Council for their hard work within their school and the community.

F. ANNOUNCEMENT OF CURRENT EVENTS

6. [18-220](#) Announcement of current events from mayor and councilmembers.

Councilmember Waldron announced this is National Police Week and tomorrow morning at 9 a.m. in front of the police department there will be a memorial service for Officer Duncan, the only Apache Junction officer killed in the line of duty.

Councilmember Rizzi announced she attended the Youth Matters Conference at the junior high school and was given the opportunity to speak. The older children mentored the younger children.

Councilmember Evans announced last week she, Bryant Powell and Janine Solley attended a presentation at the Board of Realtors in West Mesa concerning commercial real estate in municipalities. Lisa Atkins from State Land was presenting.

Councilmember Struble announced last Tuesday at the school board meeting they recognized the kids from each of the schools that were student of the year. He read their names for recognition.

Councilmember Struble commented they finished up with free dump week last week. This week there is keep your truck and car dirty week. Peralta Trail Building America Club is having

a car wash on Saturday morning to raise money for a fellow student that needs surgery.

Mayor Serdy commented Peace Officers Week is going on all over the country.

Mayor Serdy announced last Saturday the bicycle police officers set up a course for little kids to learn how to signal and what hazards to look for.

Mayor Serdy announced everyone got a plastic bag in their mailbox from Fry's for the food bank. He and Councilmember Rizzi went there and watched all the food come in. It was awe-inspiring to see the community donate like that. They take donations all year long.

G. CITY MANAGER'S REPORT

7. [18-221](#) City manager's report.

City Manager Bryant Powell thanked him for honoring the public works department and commented on National Peace Officers Memorial Day and National Police Week.

8. [18-203](#) Presentation and discussion on the monthly financial update.

Assistant City Manager Matt Busby gave a short briefing on the monthly financial report.

H. PUBLIC HEARINGS

9. [18-241](#) Presentation, discussion, public hearing and consideration of proposed Resolution No. 18-21, an appeal of case CUP-9-17 by Evan Bolick, representing James and Bambi Johnson, Mark and Kindra Theisman, Nick and Helen Funk, Rich and Kathy Beavers, and Patrick and Diana La Clair, requesting an appeal of a conditional use permit granted by the planning and zoning commission to Mehmood Mohiuddin, represented by Ralph Pew, to conduct various outdoor entertainment activities on his property surrounding the Hitching Post and HP Steakhouse restaurants, zoned B-1 General Commercial, and located at 2341 N. Apache Trail.

Senior Planner Rudy Esquivias briefed the council on the item.

Mayor Serdy asked why there is no parking in condition number 12 if it is a safe place to park. He asked what the problem is with it.

Senior Planner Rudy Esquivias stated the storage lot to the south is used for RV storage. There might be several trucking companies that use that property. That lot was not included

for use as part of the activities related to this conditional use permit or as one of the lots available for overflow parking.

Mayor Serdy asked if this would have to be done every three years as one of the conditions in the high teens required.

Senior Planner Rudy Esquivias stated no. They are suggesting something like they have done with other conditional use permits like the medical marijuana thing and the market day events. They are automatically brought back every four years and on one of them it was to be brought back every three years just to make sure there was compatibility and no issues or problems. They are suggesting a one-time review after three years to see how things are going. One of the conditions is they would also update the commission within a year.

Mayor Serdy requested the applicants' attorney to address the council.

Mr. Ralph Pew, Mesa, addressed the council. He has represented Mo over the years. This is for an appeal on an approved conditional use permit by the planning and zoning commission. The council can uphold, deny and reject or modify the decision. The reason they are here tonight is that several years ago they came before the council and had a development agreement approved that allowed the operation of the bull riding arena on Thursday and Saturday evenings. At the time the development agreement was approved, the conditional use process was not available in the city's zoning code, becoming part of the code afterwards. When Mo decided to expand and include the operation of his restaurants and his western town along with some outdoor activities, those would now fall under a conditional use permit. There is a list of permitted uses in each zoning district. There is also a table of uses that are compatible with the allowed uses but require another hearing by the planning and zoning commission to determine compatibility, location, the nature of the use and apply conditions to the case. That is what is critical here tonight. The outdoor uses proposed include some events in the western town, volleyball, corn hole, outdoor activities behind the restaurant and the continued use of the bull riding arena for an additional five events a year beyond Thursday and Saturday. If they were an allowed use they would not be here tonight. Since they are outside and beyond what is allowed in the development agreement they are here on a conditional use permit. Some of the surrounding property owners have appealed the approval of this conditional use permit. Mr. Esquivias

has given a very accurate description of what Mo is requesting. Unless they have questions, he will not be redundant on the uses. He wants to focus on the conditions of approval and the findings of fact. Factors and findings sometimes get mixed together. The factors they are to consider are the use, the manner of its operation and its configuration. There is a list of factors the code says they can take into account but they are not limited to those. They can consider other issues. He urged the council to approve the conditional use permit as it was approved by the planning and zoning commission subject to a few changes to conditions. The findings justify it. The outdoor uses being proposed do not present a detrimental or inimical impact on the neighborhood according to the various factors listed in the code. The question is if the roadways are adequate and is there off-street parking and facilities. They are at the corner of Apache Trail and Lost Dutchman Boulevard, a very important intersection that is well-traveled. It is picturesque and beautiful. There is plenty of access and roadways there. There is parking on the site given the additional land proposed in the conditional use permit just barely south of the restaurant. The facilities have historically accommodated larger crowds with outdoor restrooms. They can continue to do that. There is a condition that deals with that ultimately but not initially. They believe that is a clear finding. He asked if there are negative impacts from odor, dust, gas, noise, lighting, smoke, heat and glare. Most of those there is really not any negative impact. Someone might say there could be smoke which comes from individual fire pits used in the fall and winter in the outdoor area. They could assume the fire pit could have a little bit of smoke that trespasses beyond the property. It is not much different from someone having a barbeque or a fire pit in their own backyard. It is not a major deleterious effect on adjoining property owners. There is the question of if the use contributes to the deterioration of the neighborhood. Neighborhood is a broad word there. It uses neighborhood and negative impact on property values. The question is who the neighboring property owners are. The property owners to the east are clearly residential homes, beautiful homes with wonderful people living there. To the north is another commercial use. To the west is a commercial use. To the immediate south there is one appendage of a residential piece that adjoins this but it is commercial. He asked if they look at this use and say it is so obnoxious and so terrible that it becomes detrimental or seriously injurious to those residents to the east. They believe that is not the case through the limited hours of operation, the screen wall

they are agreeing to do on Cortez and the setback from where they are operating to adjoining residential properties. The letter the council received tonight is the first they have heard of a commercial neighbor in opposition to the project. Others may speak about that tonight but they have not heard that yet from anyone. Property values are difficult things to deal with. He asked how they would know if a particular use is truly harmful and causes a diminishment in value. It is unpredictable and hard to know. Their position is this is a vibrant, exciting, good use. There are those who would choose to live by it. There may be those who are offended by it. Their position is that it does not diminish any of the neighbors' property values. In fact, in their opinion, most of the adjoining property owners would have a beneficial effect by this use because it is so encouraging to the community, so enlightening and so fun that it adds vigor to that area. He asked if the use is compatible to the surrounding area. They believe it is. They are not proposing any additional buildings. They are doing outside volleyball and corn hole and little bridal arch-type wedding things. This commercial property has been here since the annexation that occurred at about the same time the residential land came in. He thinks they are relatively close in time. For anyone to say this was not a commercial site or this was all residential is not true. It is a critical commercial intersection. They are asking for limited and restricted outdoor uses. They conform to the general plan. The staff report is clear. They have discussed screening and buffering and they believe there is sufficient buffering. This location has the view, the access to the lakes and it is the spot in the city where you can get that feel of the outdoor ambience and what it means. They believe all the findings are met. He next wanted to go through the conditions, the key to a conditional use permit as the code gives the commission and council the authority to deal with it. He had copies of their suggested changes to the conditions for the council and on a thumb drive for audience viewing.

Mayor Serdy asked if these were in their packets.

Mr. Ralph Pew stated they are not. They just finished them.

Mayor Serdy commented they could possibly do both. The public can see it on the thumb drive and the council can look at the copies.

Mr. Ralph Pew stated there was a lot of discussion about conditions at the planning commission meeting. They took the

decision of the planning commission with their findings and the conditions and used those as the base. They are making some suggested changes here. He will tell them what they are in each instance, where they agree and where they have a different view. The first one is the condition that deals with the fence on the eastern side of the property. The planning commission's condition deals with an engineered 6' chain link fence with a 10' setback and other details. They propose that wood or vinyl slats be put into the existing chain link fence, not taking one out and building a new one, but to use the existing fence in its current location. If it is determined that the chain link fence encroaches into rights-of-way or there is a problem with that, they can work with staff over time to move it to the right location. Their view is to use the current fence, put the slats in it and create the obscure visual buffer for the residents over to the Hitching Post facility. That is number one. Number two is a curious condition, also. When the commission crafted this condition they basically followed the recommendation of staff along with some small changes. It deals with the traffic impact analysis. It suggested that after a year Mo pay for and commission a traffic impact analysis. Based upon that, Mo would meet with a traffic engineer and city staff and consider what to do on Lost Dutchman as that is a city right-of-way. He would also have to deal with Highway 88. Highway 88 is an Arizona Department of Transportation roadway. They have rewritten this condition. Their proposal is if within a year the city wants to do a traffic statement or traffic impact analysis, the city should initiate that and they will participate, cooperate, meet with staff, discuss how it affects Lost Dutchman and together go to the Arizona Department of Transportation who controls what happens on Highway 88. If they like it the way it was from the commission, Mo will incur the cost of doing it. He wants to clarify there is the city and the Arizona Department of Transportation. That needs to be straightened out somehow. They have another suggested change for condition three. This condition ended up being that within a year the property owner, the city building official and the Pinal County Health Department will meet and evaluate the public facilities, restrooms, etc., to determine if there are enough for the uses that are going on and are adequate and appropriate. Mo's experience has been that Pinal County controls that decision. The city building official can have thoughts and input on the idea but ultimately the governmental entity with jurisdiction over public facilities there is Pinal County. They have tweaked it to say they would work with Pinal County Health Department and review public facilities for this site after a

year. It is a technical change and he would urge them to have them work with Pinal County, who may invite the city building official to join the discussion. There is a simple change to condition four. The condition states that all exterior lighting shall be brought into compliance within a year. He clarified it should be all exterior building lighting. They added the word building to that condition. Some of these structures have been there for decades. If any of the lights on the building are visible, shine and do not comply, they will fix those. This seemed to say all lighting of whatever form and location. Conditions five and six are fine.

Condition seven needs some clarification. It was always their intent that the bull riding would be as it is today, on Thursdays and Saturdays and it must cease operation by 10 p.m. In their application their intent was to request up to five additional events in the bull riding arena on times and dates other than Thursdays and Saturdays. Typically, these are junior competitions. There may be other ideas coming but all they are asking for is five events outside of Thursday and Saturday night. The marvelous thing about this with respect to juniors is they now have three young people that have trained at the Hitching Post who are now on scholarship at the University of Texas with respect to bull riding. They have clarified that and the condition has an 8 p.m. start time. They are perplexed as to why there is a need for a starting time. If 7:30 p.m. or 6:30 p.m. is appropriate or whatever it might be, the key to the compatibility with the neighbors is to turn the lights off and be finished at 10 p.m. Those are the two changes in their language to condition seven.

Condition eight is an interesting idea. Their thought was if no bulls are being ridden in the arena and there is no amplified music, they should be able to use the arena for other events such as an art display or bicycles or any number of things. As long as there is no amplified music coming from there it should not matter if they use that frequently. They do not want to be limited to the bull riding times just to use the arena. Condition eight allows them to use the arena at any time for smaller, less intense activities that do not have amplified speakers or music. Conditions nine and ten are agreed to. They have a small nuance for condition eleven but it is nevertheless important. It currently says in the expansion area which is the corn hole, the volleyball and all that behind the Hitching Post, that those outdoor activities should be terminated by 10 p.m. Mo feels if the restaurant is open until 10:30 p.m. or 11 p.m. and people are having dinner, a drink and want to play corn hole out back they should be able to do so until the hours of operation of the restaurant close. That is how they have crafted that condition.

Condition twelve is the concept of parking. The first idea in their change is that there is no parking on Lost Dutchman or Cortez Road. They agree to that. The other thing is what could be done with the storage area. The conditional use permit does not include the storage area. The concern is that even though an event may require additional parking, he could come to the city and request an event license. That is still a possibility. It is uncertain to them how those are evaluated and what the basis for it is. If the council receives advice from counsel or the planning department that they cannot allow parking in the storage area as a part of this use permit, they will ask for direction and thoughts on how to deal with that when an event license could be issued. They think it is totally appropriate if there is a unique event. If a license is issued parking could occur there for that one time. They do not want to have it be there all the time for all fifteen events. They are trying to bridge the gap but it is difficult given the nature of the way this case was filed. Condition thirteen they agree to. Condition fourteen defines the term substantial increase in intensity and/or major changes to the conditional use permit. It says these increases in intensity are to be determined in the opinion of the development services director. While they do respect the opinion of the development services director, there is no meaningful purpose to have a definition of substantial increases in intensity because that is not a standard by which to measure compliance with the conditional use permit. Conditional use permits have built into them a revocation provision. If there is material noncompliance, the term in your own code, with any condition or there is general detriment to the welfare of the community they can convene a meeting of the planning and zoning commission and evaluate that. It is nice to provide a definition of substantial increase, it is really not part of the analysis and the condition, as written, does not have a consequence. It just defines the term. They think it is better to let the code speak for itself. If they are out of compliance in a materially substantial way then a public hearing can be had and revocation considered. Conditions fifteen, sixteen and seventeen are all agreed to. Conditions eighteen and nineteen are the same theory as we just talked about on condition fourteen. Condition eighteen says that after three years Mo has to come back, file a new application, go through the review process, have a new hearing and have the conditional use permit redone and reapproved. That is time-consuming, expensive and unnecessary because they have a revocation provision. If he operates this for six months and in that period is materially out of compliance, have a hearing with

the commission and consider it. Do not make him come in three years from now and go through the whole thing again. Condition nineteen says that in one year the planning commission is going to review the use permit. He asked what they are going to review. If there is noncompliance, convene a meeting and consider revocation. Do not just review for the sake of reviewing it. They suggest conditions eighteen and nineteen be deleted. Conditions twenty through twenty-three they agree with. Conditions twenty-four and twenty-five simply deal with their suggestion you use your zoning code language and not additional words that have been created in this conditional use permit. Condition twenty-four deals with the expiration of a use permit. The exact language of the code states this conditional use permit shall become void if the use is not commenced within twelve months of the approval date. That is your code and it is the standard. The language we have here says the applicant shall improve and begin operating the outdoor entertainment venue in accordance with the submitted drawings, narrative and prescribed conditions of approval within twelve months of being granted the conditional use permit or else the conditional use permit becomes void. They are struggling as to why this additional language was put in there and why it is necessary. The code is perfectly fine. The same thing happens with condition twenty-five. Revocation is built right into the code. The code says this conditional use permit may be revoked by the planning commission following a public hearing and a finding that there has been material noncompliance with any condition prescribed in the permit or that the use generates a demonstrated public safety, health or welfare concern. That is a really good standard. The planning commission can look at that. The language in the condition approved by the commission and recommended by staff says the planning and zoning commission shall reserve the right to reconsider the conditional use permit approval for the outdoor entertainment venue. There is no right to reconsider. There is a right to evaluate whether or not there has been material noncompliance at a public hearing for noncompliance with any condition prescribed as part of said conditional use permit, including sign violations or safety problems. Sign violations and safety problems are not part of your code. They encouraged them to just use the code so there will be no misinterpretation, no misunderstanding and it is very clear. He thanked them for listening to him. On behalf of Mo, they respectfully urge the council to support the decision of the planning commission and modify the conditions as they have recommended so that Mo can continue with this wonderful location and his outdoor uses. Remember, the bull riding is going to continue. It is part of an existing

development agreement. This hearing tonight should not turn into whether or not the bull riding exists or does not exist.

Mayor Serdy asked if he could take questions now.

Councilmember Evans commented not yet.

Mayor Serdy commented he thought they would be good without a break yet. He commented this is a public hearing and ordinarily they would to the public to hear them but what they are going to do is allow the appealers to go first and the public hearing will go after that. This will be Attorney Evan Bolick and it will be handy if they have a list of people that will present.

Mr. Evan Bolick stated he is here on behalf of several homeowners and he had them stand up as he called their names: James and Bambi Johnson; Mark and Kindra Theisman; Nick and Helen Funk; Rich and Kathy Beavers and Patrick and Diana La Clair. All of these residents live within a few hundred feet to one thousand feet away from the Hitching Post in single, residential homes. There have been some claims this is just a town spat which is simply not the case. His clients have an earnest and honest interest in protecting their homes and lifestyles from intrusion as Mo does for protecting his business expansion. There is no hidden agenda or anything of that nature. They simply want to make sure that to the extent the uses are expanded here that it is done so in a way that is not detrimental to the lifestyle they purchased when they purchased their homes in this area. A denial of the conditional use permit will not shut down the Hitching Post nor forever preclude him from expanding. That was a claim various people made during the commission hearing. If the conditional use permit is denied, Mo would continue to be able to utilize the Hitching Post as it is utilized today consistent with zoning and the agreement. He could certainly resubmit a use permit application at a later date or even try to phase growth in a way that would be better suited for the area. They are here to ask that the conditional use permit be reversed and denied in its entirety. Failing that, they are hoping they will amend some conditions adopted by the planning and zoning commission consistent with what they will be presenting today. He objected to any consideration of the new conditions the Hitching Post offered. They did not appeal the commission decision, only we did. In his opinion, especially since we paid the fees for the notice and initiated this, he believes only their conditions and request for changes to the conditions can be considered. He will leave that to the city

attorney to elaborate on and make this a part of the record. The first reason the decision should be reversed is there were various procedural issues with the approval of the conditional use permit. These are standard procedural protections, due process in open meeting law that are required in every hearing, including the commission hearing, to make sure everyone is having a fair bite of the apple and all of the requirements are being met. As they will see, a lot of procedural issues occurred at the commission meeting that warranted reversal. Due process requires a fair trial and a fair tribunal. A quasi-judicial proceeding must be attended not only with every element of fairness but with the very appearance of complete fairness. In administrative proceedings the procedure of due process includes the right to notice and opportunity and to be heard at a meeting. This is actually open meeting law here. It basically says any action of a public body, such as yourselves, must be done during the meeting open to everyone. That ties in to due process to everybody. A party's right to due process is violated when a decision maker improperly allowed ex parte communications from one of the parties. That means if he were to come up to them outside of a public hearing and make any sort of argument or statement or provide them with evidence, that would violate due process. He showed the council a screenshot of a video from the first recess. It shows Mr. Pew walked up to the commissioners and engaged in some sort of discussion with them. They do not know exactly what was discussed but the very point of due process is one is not supposed to have discussions with one party and that, in fact, occurred here. Additionally, there were board discussions and potential actions made outside of the meeting. He showed a screenshot of the second recess and the room is pretty much cleared out but a quorum of the board had gathered and they believe they were discussing the conditions that they were going to adopt. That happens improperly if it is outside of the meeting. Reversal is warranted for those reasons simply due to due process concerns. The use permit should have been denied because the evidence simply did not support the grant of it. It is important to remember that an administrative board must follow its own rules and regulations. The commission cannot depart from what it is required to consider during a use permit process. The city code says they must ultimately find that whatever is granted by the use permit will not be detrimental to persons residing or working in the area, to adjacent property, to the neighborhood or to public welfare in general. Considering that impact to the neighbors is required, they will see a little later some of the commissioners felt that if the neighbors were not adjacent to

the property then the impact did not need to be considered. They will also see the impact goes far beyond into the entirety of the neighborhood. The code also says the Hitching Post has the burden of proof to show the use will not be detrimental. It is not the neighbors who have this burden. They will again see that at least several of the commissioners felt the neighbors had not proven that the use is detrimental and that is not what is supposed to be considered. It is supposed to be what the Hitching Post showed. He wanted to highlight burden of proof more than the red type that it is already in because we have just heard from their attorney where he said their position is and their thought on this is and things of that nature. They do not have any studies or reports on the things at issue. That is what burden of proof means. It is not to take it on faith that we think this will be big enough, there is enough parking or the traffic will not impact the neighbors. They need to actually provide proof to demonstrate that will not be the case. They will see that his clients provided numerous pieces of evidence to suggest the expanded uses will be incredibly detrimental to their homes. All we have on the other side are promises it will not be as opposed to proof. Two commissioners, Kridler and McGraw, said the neighbors did not demonstrate the conditional use permit would be detrimental. This is not accurate. There were many videos, some of which will be played tonight, showing there is an incredible amount of noise, light, dust, smoke, parking and traffic issues impacting the neighborhood. That is also not the standard for the neighbors to show that the use would be detrimental. It is for the Hitching Post to show it would not be detrimental. Commissioners Heck and Howard stated the Hitching Post can engage in all of the new uses because it is commercially zoned. This is not true. They need a use permit in order to utilize the property for these expanded uses. The mere fact it is commercially zoned does not give them carte blanche to do whatever they would like on the property, especially when it may impact negatively the residential neighbors. The commission stated there was no evidence of violation. They will be distributing a little later a city notice of violation of their development agreement. It points out that at two times the Hitching Post was contacted as being out of compliance with their development agreement. Commissioner Kridler stated they only need to consider adjacent landowners. The ordinance says the entire neighborhood is considered, not just adjacent landowners. However, four of his clients are adjacent landowners, living directly across the street from the Hitching Post. Many commissioners stated the Hitching Post may operate as it is a commercial property. This is not about whether or not the

Hitching Post can operate. It is about whether or not they can expand the uses in this neighborhood. The commissioners admitted they had not considered these factors after making their motion. Vice Chair Heck stated they had not even discussed this after the motion was made, this meaning the factors you have seen several times for conditional use permits. It is concerning that these factors were not at the forefront of the commissioner's mind. They may consider other factors, but they must consider the factors set forth in the code. Here we have Vice Chair Heck saying they have not even discussed this. He thinks it is important these factors are included in the code because that is a sign from the city that those are the most important factors. That is why they are in the code. That is why they must be considered. The fact that to the extent they were considered they were in the background should warrant a reversal. Confusion was recognized at the next commission meeting where another conditional use permit was discussed at which point the commission and the city attorney discussed what needed to be considered, how things needed to proceed and so on. Another issue with this is there is no clear parking plan. The narrative says there will be 112 total spaces. It is unclear as to where. Today they have come in and implicitly admitted there is not enough spaces by asking for occasional parking in a parcel that is not part of the application. They are asking for this to be a regional attraction with rodeos, concerts and car shows. Clearly, car shows, weddings and musical concerts can attract far more than 100 people and yet we have no certainty as to where those people will park and parking is already an issue as is. No traffic study has been submitted and now the Hitching Post is asking the city to pay for a traffic study. No noise study was submitted. Noise is already an issue at the Hitching Post as they will see in the upcoming videos. There has been a lot of back and forth as to whether or not the noise is too loud or is within compliance of the noise standards. This was something the Hitching Post needed to prove was the case. If the noise is not out of compliance then they needed to prove this. There is no mention of how the expansion would impact the neighboring residential property values. He is not lining up to buy a residential home across the street from a concert and bull riding venue. He thinks they can come in with common sense and say this is unlikely to benefit the residential neighbors' property values. If it is not going to impact the property values, then this was something the Hitching Post needed to present which they did not. We are talking about a concert, major venue and bull riding operation right next to single-family residential homes. Requirements are not yet met regarding signage, lighting and capability to provide bathroom

facilities for all guests. These are things the conditions propose will be done later but they should be done now to ensure this will not be detrimental to the neighborhood. There has been a resistance even today to any new screening beyond a 6' fence around the parking lot. If there is only a 6' fence it will also violate the city's zoning requirements for an opaque wall. The code requires these be met before the use permit is granted, not afterward. The code says verify then approve, not approve then verify as is what happened when the commission granted this use permit. He handed out a copy of the notice of violation that discusses the violations of the development agreement by the Hitching Post. This is in response to the commission stating there was no evidence the Hitching Post already caused any issues or violated any agreements and yet we have that evidence right here from the city. It notes this is the second warning. The first occurred on October 17, 2016. It discusses that there are parking issues of which the Hitching Post is in violation. Ironically, parking issues is again a matter that has yet to be resolved by this application with any assuredness as to how it will be handled. It also states they are in violation for operating past hours. What this really means is there is noise and lights past the hours they have agreed to shut down. That is again very concerning to the neighbors with the Hitching Post proposing there are no checks by the commission within a year or renewal within three years because there is no reason to believe there will not continue to be operations past the hours a

I. OLD BUSINESS

J. NEW BUSINESS

K. COUNCIL DIRECTION TO STAFF

10. [18-219](#) Direction to staff on Fiscal Year 2018-2019 human services funding recommendations. If so directed, the contracts for services will be placed on the June 19 consent agenda at which time council can approve them or opt to continue them to another date.

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 Rizzi thanked the commission for going through all the applications. It is a very difficult process. They have a greater need than we have funds available. It is tough

to break it down and decide which organization gets how much. She wanted to thank the board for the time they put in to going through all the applications, asking questions and reviewing everything. They wish there was more to give but they do not. They do a great job in being fair and making sure everyone is following the rules.

Mayor Serdy commented it is one of the more rewarding boards and important boards they have here in the city. He closed the discussion with no further comments and called for a motion.

Councilmember Barker MOVED THAT THE FOLLOWING DIRECTION BE GIVEN TO STAFF REGARDING FISCAL YEAR 2018-2019 HUMAN SERVICES FUNDING RECOMMENDATIONS: THAT THE CONTRACTS FOR SERVICES AS RECOMMENDED BY THE HEALTH AND HUMAN SERVICES COMMISSION BE PLACED ON THE JUNE 19 CONSENT AGENDA.

Councilmember Waldron 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

Mayor Serdy called for a motion.

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, JUNE 4, 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, JUNE 5, 2018, IN THE CITY COUNCIL CONFERENCE ROOM.

Councilmember Rizzi SECONDED THE MOTION.

VOTE: Unanimous.

The motion carried.

11. [18-222](#) Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Monday, June 4, 2018.
12. [18-223](#) Executive Session at 6:00 P.M. and Work Session at 7:00 P.M. for Tuesday, June 5, 2018. Other meetings if necessary.

M. CALL TO PUBLIC

Mr. George Schroeder, 2444 W. Virginia, Apache Junction, addressed the council regarding his belief the conditional use permit belonging in court and the city giving away mental health funds.

N. ADJOURNMENT

Mayor Serdy adjourned the meeting at 11:52 p.m.

Consent Agenda Items are as follows:

1. Consideration of acceptance of agenda.
2. Consideration of approval of minutes of regular meeting of May 1, 2018.
3. Presentation, discussion and consideration of proposed Resolution No. 18-19 committing local funds as leverage for the Fiscal Year 2017 State Special Project grant application.
4. Consideration of proposed Resolution No. 18-20, authorizing the city manager to execute a loan agreement with Apache Junction Villas, LLC, regarding the 52 unit low income housing tax credit townhome project at the southeast corner \ of San Marcos Drive and Tepee Street.

ACCEPTED THIS DAY OF , 2018, BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA.

SIGNED AND ATTESTED TO THIS DAY OF , 2018.

JEFF SERDY

Mayor

ATTEST:

KATHLEEN CONNELLY
City Clerk

CITY COUNCIL MINUTES
CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the City Council of the City of Apache Junction, Arizona, held on the 15th day of May, 2018. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 4th day of June, 2018.

KATHLEEN CONNELLY
City Clerk