



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

apachejunctionaz.gov
Ph: (480) 982-8002

Tuesday, September 21, 2021

7:00 PM

City Council Chambers

A. CALL TO ORDER

Mayor Wilson called the meeting to order at 7:01 p.m.

B. INVOCATION AND PLEDGE OF ALLEGIANCE

Vice Mayor Rizzi gave the invocation and Councilmember Evans led the meeting attendees in the Pledge of Allegiance.

C. ROLL CALL

Present: 7 - Mayor Wilson
Vice Mayor Rizzi
Councilmember Evans
Councilmember Schroeder
Councilmember Biggs
Councilmember Nesser
Councilmember Gremmel

Staff in Attendance:

Bryant Powell, City Manager
Matt Busby, Assistant City Manager
Joel Stern, City Attorney
Jennifer Pena, City Clerk
Thomas Kelly, Police Chief
Larry Kirch, Development Services Director
Rudy Esquivias, Planning Manager/Zoning Administrator
Nicholas Leftwich, Associate Planner
Raquel Schatz, Public Works Engineer
Janine Hanna-Solley, Economic Development Director
Leslie DeReche, Finance Director
A. Doug LaSota, Municipal Judge
Heather Hodgman, Administrative Services Manager

D. CONSENT AGENDA

Vice Mayor Rizzi moved, seconded by Councilmember Nesser to approve the Consent Agenda.

Yes: 7 - Mayor Wilson, Vice Mayor Rizzi, Councilmember Evans, Councilmember Schroeder, Councilmember Biggs, Councilmember Nesser and Councilmember Gremmel

No: 0

1. [21-463](#) Consideration of acceptance of agenda.
2. [21-462](#) Consideration of approval of minutes of the regular meeting of September 7, 2021.
3. [21-452](#) Consideration of approval of an extinguishment of a Federally Patent Easement (FPE), located on Forest Street (alignment) from Hilton Road to Goldfield Road, for the purposes of increasing buildable space for a home using the property line as the starting point for the forty (40) foot setback instead of the existing FPE.
4. [21-480](#) Consideration of Resolution 21-43, a resolution of the Mayor and City Council of the City of Apache Junction, Arizona, supporting the Resolution Copper Equalization Payment Use for the acquisition of land for conservation and/or open space purposes in the Superstition Foothills area.

E. AWARDS, PRESENTATIONS AND PROCLAMATIONS

5. [21-464](#) Presentation of proclamation designating the month of October 2021, as "Domestic Violence Awareness Month".

Mayor Wilson proclaimed the month of October 2021 as "Domestic Violence Awareness Month" and presented the proclamation to Cecilia Voron, from Hope Women's Center.

Ms. Voron thanked the Mayor and provided a brief summary of all the services the center provides.

F. REGIONAL INTERGOVERNMENTAL UPDATES

6. [21-461](#) Brief summary of intergovernmental updates from mayor and councilmembers.

Councilmember Biggs announced Representative Pratt from Legislative District 8 passed away and expressed his condolences.

Councilmember Gremmel announced the Greater Phoenix Economic Council (GPEC) Board met on September 16th and she was voted in as a new member to the Board.

Mayor Wilson stated he met with Representative Biggs office and expressed several community concerns such as:

- discussion on the possible relocation of the Social Security Administration building
- the North/South freeway alignment at the eastern boundary of the city
- water shortages of Arizona and how it affects the surrounding agricultural community
- the Bureau of Land Management land
- Superstition national monument
- the SRP project and the Horseshoe Dam

G. CITY MANAGER'S REPORT

7. [21-460](#) City Manager's Report.

City Manager Bryant Powell provided a brief summary of the October 4th and 5th agenda and the documents for the annexation.

He announced Stephen Herring of Republic Services had a tire blow out and was not able to make the meeting.

He then asked Assistant City Manager Matt Busby to provide an update on the .2% sales tax and the revenue generated from that tax.

8. [21-437](#) Discussion and presentation by Stephen Herring of Republic Services on free dump week and update on Landfill activity.
9. [21-465](#) Presentation, discussion and update on the .2% sales tax dedicated to fund roadway maintenance and repairs.

Assistant City Manager Matt Busby provided a brief overview of the revenue and expenditures of the sales tax. Currently the report indicated a collection of \$6.7 million with expenditures to date of \$7.7 million. He then provided a summary of the projects that have been completed using those funds.

10. [21-459](#) Announcement of current events.

Assistant City Manager Matt Busby provided Council with the update as Mr. Bravo was attending a neighborhood meeting. The following items were presented:

- AJ Open Mic night at the Table of Grace Church. For further questions contact Jeff Struble at 480-694-5100.
- Superstition Open on September 24th at Mountain Brook Golf Club
- Apache Junction Founders Centennial Celebration - the committee meets twice a month on the 2nd and 4th Wednesday of every month at 6:00 p.m. at the Library

H. PUBLIC HEARINGS

11. [21-434](#) Presentation, discussion, public hearing and consideration of application for a Class B bingo license for VFW Superstition Mountain 9399, Apache Junction, Arizona.

Vice Mayor Rizzi moved, seconded by Councilmember Nesser to approve the Class B bingo license application for the VFW Superstition Mountain Auxiliary 9399.

Yes: 7
No: 0

City Clerk Jennifer Pena stated she wanted to clarify that the Class B bingo application was for the Superstition Mountain Auxiliary 9399, not the actual Post. The Post received their Class B license in 1992. Ms. Pena stated the Police Department, Fire District, Building and Planning and Zoning Departments have all recommended approval for this bingo application.

Mayor Wilson opened the public hearing, receiving no comments, he closed the public hearing.

12. [21-457](#) Presentation, discussion, public hearing and consideration of proposed Ordinance No. 1508, an ordinance of the Mayor and City Council of the City of Apache Junction, Arizona, amending Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, by repealing and replacing portions of Article 1-5: Zoning Bulk and Use Regulations; and by adopting by reference that certain document entitled "August 2021

Amendments to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5: Zoning Bulk and Use Regulations, § 1-5-3 Non-Residential Use Regulations and § 1-5-4 Non-Residential Bulk Regulations”; repealing any conflicting provisions; providing for severability; and providing for penalties.

Councilmember Biggs moved, seconded by Vice Mayor Rizzi that Ordinance 1508 be read by title only and the reading of the entire ordinance be waived.

Yes: 7
No: 0

Councilmember Biggs moved, seconded by Councilmember Nesser that Ordinance 1508 be approved with the amendment to remove the CUP condition from bars/restaurants and clubs with amplified outdoor music specifically from the B-3 zoning and move it to a yes.

Yes: 6
No: 1 - Councilmember Evans

Motion passed.

Mayor Wilson stated that items 12 and 13 would be combined with one public hearing but that each item would need its own motion and vote.

Nick Leftwich, city planner, provided an updated summary and final review of the code changes ordinance 1508 creates. The ordinance will be adopted by reference by resolution 21-30.

Mr. Leftwich stated the majority land owner of the B-3 downtown core has been involved in the research and discussion of the code revisions and they have expressed support for the proposed changes.

Background:

On August 17, 2021, the City Council held a public hearing for the presentation and discussion of the proposed amendments to Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5: Zoning Bulk and Use Regulations. Following the reception of public comments and council discussion, the public hearing item concerning the proposed amendments was continued until September 21, 2021 to allow further study and consideration of how to properly shape the “B-3” City Center Land Use categories.

August 17, 2021 City Council Public Hearing:

Under this direction, staff researched and re-evaluated the land use categories of consideration and presents the revised document “August 2021 Amendments to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5: Zoning Bulk and Use Regulations, § 1-5-3 Non-Residential Use Regulations and § 1-5-4 Non-Residential Bulk Regulations” for council consideration and public hearing.

Regarding the discussion items:

As noted in council discussion, there was some confusion about how the code language handled accessory retail and service uses.

Footnote 6 has been updated with clearer language and utilized more frequently within the table to designate that the noted use is permitted when accessory to a permitted primary use, such as how a grocery store sells bottled gas, but a stand-alone bottled gas store is not a permitted primary use in the B-3 district.

The land uses identified in the August 17th meeting have been re-evaluated. Printing shops and offices have been amended to be allowed without additional restrictions in the B-3 zone. Auto part sales and appliance repair are permitted when incidental to a permitted primary use. Staff recommendation regarding car washes, auto repair shops, nurseries and greenhouses, and antique stores has not changed.

Vehicle Showrooms, such as those that luxury auto dealerships have located inside of malls, were further researched with discouraging results, and as such they have not been added as a separate category from the inclusive "Motor Vehicle Dealer" land use category.

Staff recommends that the Conditional Use Permit requirement for Outdoor Amplified Music for restaurants and bars remain unchanged.

Other jurisdictions, such as the Town of Gilbert, have noted that other noise problems such as extreme bass levels disturbing nearby residents can occur even when the decibel levels that the city's noise ordinance regulates do not exceed city standards.

Planning and Zoning Commission Recommendation:

A Planning and Zoning Commission public hearing was held on July 27, 2021. The Commission unanimously recommended approval of the text amendment in a vote of 7-0.

From the time of that recommendation the amendments have been altered in the manner noted above, as well as other edits as directed by the city council in the August 2, 2021 Work Session and as reported previously in the August 17th City Council meeting. These changes were to the allowances for data centers, trade schools, administrative services and shopping center developments, as well as a change to the percent requirement of how much acreage a residential development replacing a commercial development would be required to retain for commercial uses from 45% to 35%.

Mayor Wilson opened the public hearing.

Reece Anderson on behalf of Bela Flor Communities stated they have no further comments on the changes. He stated as an individual though, he sees the value in using a CUP as a tool for the council. He believed it gives the council control over outdoor amplified music. He used the Dirk's Bentley restaurant in Gilbert as a prime example where a CUP helped the city council enforce quality of life and enforce noise ordinance issues.

Donna Carr, Apache Junction resident commented on the Facebook post inquiry about businesses on the bottom with residential living on top of it.

She felt if the developer would put forth some visuals of the development they have planned for the downtown area, it would be helpful for the community to see those renderings.

Mayor Wilson closed the public hearing.

- 13. [21-456](#) Presentation, discussion, public hearing and consideration of proposed Resolution No. 21-30, a resolution of the Mayor and City Council of the City of Apache Junction, Arizona, declaring as a public record that certain document filed with the city clerk and entitled "August 2021 Amendments to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5: Zoning Bulk and Use Regulations, § 1-5-3 Non-Residential Use Regulations and § 1-5-4 Non-Residential Bulk Regulations"; repealing any conflicting provisions; and providing for severability.

Yes: 7 - Mayor Wilson, Vice Mayor Rizzi, Councilmember Evans, Councilmember Schroeder, Councilmember Biggs, Councilmember Nesser and Councilmember Gremmel

No: 0

Councilmember Nesser moved, seconded by Councilmember Biggs to adopt Resolution 21-30.

- 14. [21-477](#) Presentation, discussion, public hearing and consideration of proposed Ordinance No. 1512, an ordinance of the mayor and city council of the City of Apache Junction, Arizona, amending Apache Junction City Code, Volume I by repealing Chapter 5: Municipal Court, in its entirety and adopting by reference a new Chapter 5: Municipal Court set forth in that certain document filed with the city clerk and titled "2021 Amendments to the Apache Junction City Code, Volume I, Chapter 5: Municipal Court"; repealing any conflicting provisions; providing for severability; and providing for penalties.

This Ordinance was adopted

Councilmember Biggs moved, seconded by Vice Mayor Rizzi that Ordinance 1512 be read by title only and the reading of the entire ordinance be waived.

Yes: 7

No: 0

Councilmember Biggs moved, seconded by Councilmember Nesser that Ordinance 1512 be adopted.

Yes: 5

No: 2 Councilmember Gremmel and Councilmember Schroeder

Motion passed.

Mayor Wilson stated that items 14 and 15 would be combined with one public hearing but that each item would need its own motion and vote.

City Attorney Joel Stern stated this will change the city code so that the city magistrate can hire a part time associate judge and allow the hiring of a judicial assistant that will hear limited

criminal matters. It also removes the pro-tem provision of the code. Cities that do not have a charter are not allowed to have pro-tem's.

Councilmember Biggs wanted to update the public who may not be up to date on the matter. He stated this will be a cost savings measure for the city and the court system by not having a full time Assistant Judge and not being allowed to have pro-tem's.

Mayor Wilson opened the public hearing.

Bill Pearlman, public defender stated he has been with the city for the last 20 years. He stated he was in opposition to the proposed changes. He finds the information misguided.

He is not sure the "cost savings" is a true statement. He cited 5.1-6(e) under no circumstances may a judicial system perform criminal trials, civil injunctions against harassment or orders of protection hearings; but they may serve as civil hearing officers in other cases. He stated there arises an issue with the person performing discretionary acts and civil traffic hearings. He commented on the annexation and the population increase that may cause more burden on city services and the court. The city may be looking at an expansion of the court, which would require a remodel to the current building for another court room.

The definition states the person may only perform clerical and nondiscretionary functions but he does not believe it will help the city in the aspect they are thinking it will.

Mr. Pearlman proceeded to discuss the individual sections and language in the proposed code changes.

Vice Mayor Rizzi asked for clarification from the city attorney who deferred to the Judge on the matter.

Judge LaSota addressed the annexation issue. The development will take quite a while and therefore that decision can be looked at down the road. He stated he is changing the title of one open position of a full time employee and amending their duties and the Assistant Judge is only needed part time.

Councilmember Evans stated she has no issues with the assistant judge, but with the judicial assistant. She thought they had to be an attorney. Mr. Stern said the Administrative Office of the Courts regulate those requirements and stated if the City's city code does not require the judicial assistant to be an attorney, then the council can appoint someone who is not an attorney to do limited judicial items.

Judge LaSota explained how he intended to utilize each position, but Councilmember Evans asked for clarification on what limitations the council had stipulated that person have. Councilmember Evans wanted to know what the actual duties the judicial assistant will have.

Judge LaSota stated most of their duties will be administrative office matters. He stated they will be able to handle initial appearances and arraignments, no sentencing to jail time, there may be a plea agreement that is worked out between the prosecutor and the defendant but the judicial assistant will not be able to "modify" the terms. They will not be hearing contested criminal cases and they will not be doing orders of protection or injunctions against harassment.

Councilmember Gremmel stated she believes there will be some cost savings with these

changes from what the court was previously doing. Previously the court had two judges working full time.

However, she does not see the need for presiding judge,an associate judge and a judicial assistant, with the judicial assistant having limited duties.

She believes that the court will be paying this judicial assistant, with limited duties, more money than what a normal judicial assistant.

She doesn't think it's the cost savings that the city is looking for and believes there's a better way.

There was further discussion on future growth, future burden on the court, limited powers of the judicial assistant.

Donna Carr, resident of Apache Junction wanted to know how much time the judge would be taking off.

Valerie Stimuck, resident of Apache Junction inquired about the required credentials of a non attorney to hear these cases. She inquired if they had to be specialized in a certain area to be in this position.

Mayor Wilson closed the public hearing.

- 15. [21-478](#) Presentation, discussion, public hearing and consideration of proposed Resolution No. 21-41, a resolution of the mayor and city council of the City of Apache Junction, Arizona, declaring as a public record that certain document filed with the city clerk and titled "2021 Amendments to the Apache Junction City Code, Volume I, Chapter 5: Municipal Court".

Councilmember Biggs moved, seconded by Councilmember Nesser that Resolution No. 21-41, a resolution of the Mayor and City Council of the City of Apache Junction, Arizona, declaring as a public record that certain document filed with the city clerk and titled "2021 Amendments to the Apache Junction City Code, Volume I, Chapter 5: Municipal Court" be approved.

- Yes:** 5 - Mayor Wilson, Vice Mayor Rizzi, Councilmember Evans, Councilmember Biggs and Councilmember Nesser
- No:** 2 - Councilmember Schroeder and Councilmember Gremmel

I. OLD BUSINESS

J. NEW BUSINESS

- 16. [21-471](#) Presentation, discussion and consideration of entering into an agreement with Interstate Mechanical Corporation to remove two (2) existing heating, ventilation and air conditioning units and install two (2) TRANE heating, ventilation and air conditioning units with controls per engineered specifications located at the Multi-Generational Center in the amount not to exceed \$226,640.06.

Councilmember Evans moved that the agreement with Interstate Mechanical Corporation for the

removal of 2 existing HVAC units and installation of 2 new HVAC units at the Multi-Generational Center in the amount not to exceed \$226,640.06 be approved. Motion Failed for lack of second.

Councilmember Biggs moved, seconded by Councilmember Evans to bring the item back to the October 19,2021 council meeting.

Yes: 7
No: 0

Heather Hodgman briefed the council on the existing units at the Multi Generation Center.

The units are two 40 ton units that the city has been repairing for many years and before they completely break down they need replacement. She stated the city would be utilizing the current agreement for heating, ventilation and air conditioning (HVAC) services and repair for its municipal building facilities with Interstate Mechanical Corporation (Imcor) that was approved on October 19, 2020.

The project agreement consisting of the removal of two (2) units from the roof, furnish, and install two (2) TRANE units with controls per engineered specifications at the Multi-Generational Center. There will be a five (5) year parts and labor for both units, a ten (10) year warranty on the compressors, one (1) year parts and labor warranty on the TRANE control devices and a one (1) year warranty on Imcor's workmanship on the installation.

The removal and installation of two (2) TRANE units located at that the Multi-Generational Center is estimated at an amount of \$226,640.06.

There was lengthy discussion amongst council regarding the cost of replacement, the change in size of the units and whether any other cost estimates were conducted.

Council requested further research be done to see about other options in replacing the units and the item be brought back to council at the October 19, 2021 meeting.

K. COUNCIL DIRECTION TO STAFF

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

17. [21-458](#) Executive Session at 6:00 P.M. for Monday, October 4th and Executive Session at 6:00 P.M. for Tuesday, October 5th in the city council conference room located at 300 E. Superstition Boulevard in Apache Junction, Arizona and other meetings scheduled if necessary.

Vice Mayor Rizzi moved, seconded by Councilmember Evans that an executive session at 6:00 p.m. for Monday, October 4, and Tuesday, October 5, 2021 be held in the city council conference room and city council chambers, 300 E. Superstition Boulevard, Apache Junction, Arizona, respectively and other meetings scheduled if necessary.

M. CALL TO PUBLIC

Donna Carr, Apache Junction resident thanked Councilmember Biggs for alerting her to the all call to local artists. She thinks the city has time to look into alternative costs on the air conditioning units especially with the weather cooling down.

N. ADJOURNMENT

Mayor adjourned the meeting at 8:28 p.m.

ACCEPTED THIS _____ DAY OF _____, 2021, BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA.

SIGNED AND ATTESTED TO THIS _____ DAY OF _____, 2021.

WALTER "CHIP" WILSON
Mayor

ATTEST:

JENNIFER PEÑA
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 _____ day of _____, 2021.

I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 2021.