



## City Council Regular Meeting Minutes - Final

---

Tuesday, August 8, 2017

6:00 PM

---

### 1. CALL TO ORDER

Mayor Nexsen called the meeting to order at 6:00 p.m.

### 2. INVOCATION: Pastor Ryan Speakman, Living Word Family Church

Pastor Ryan Speakman with Living Word Family Church gave the invocation.

### 3. PLEDGE OF ALLEGIANCE

The Mayor led in the Pledge of Allegiance.

### 4. ROLL CALL

**Present:** 6 - Mayor Mark S. Nexsen, Councilmember Donna McCoy, Councilmember Cal Sheehy, Councilmember Michele Lin, Councilmember David Lane and Councilmember Gordon Groat

**Absent:** 1 - Vice Mayor Jeni Coke

### 5. CALL TO THE PUBLIC

There were no requests to address the Council

### 6. CONSENT AGENDA

- 6.1 [ID 17-1317](#) Approve the July 25, 2017, City Council Regular Meeting Minutes
- 6.2 [ID 17-1313](#) Adopt Resolution No. 17-3166 Approving and Authorizing the Police Chief to Execute a Peace Officer Training Fund Grant Agreement with the Arizona Peace Officer Standards and Training (AZ POST) Board for the Operation of the Western Arizona Law Enforcement Training Academy (WALETA)
- 6.3 [ID 17-1314](#) Adopt Resolution No. 17-3165 Approving and Authorizing the City Manager to Execute a Data Access / Exchange Agreement with the Arizona Department of Transportation (ADOT) for Access to ALISS Database and Safety Data Mart

- 6.4 [ID 17-1299](#) Adopt Resolution No. 17-3164 Approving the Equitable Sharing Agreement and Certification with the Department of Justice and the Department of the Treasury for Participation in the Equitable Sharing Program
- 6.5 [ID 17-1303](#) Approval of a Final Subdivision Plat for Tract 2396, a Replat of Tract 2392 Block 1, Parcel "A" to Include Lot A-1, Lot A-2 and Lot A-3 at the Shops at Lake Havasu to Divide Out Existing Buildings and Associated Parking
- 6.6 [ID 17-1318](#) Call for Executive Session Pursuant to A.R.S.§ 38-431.03(A) 5:00 p.m. Tuesday, September 12, 2017

**Councilmember Lane moved to approve the Consent Agenda as presented, seconded by Councilmember Groat, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

## **7. CORRESPONDENCE, COMMUNICATIONS, PETITIONS, ANNOUNCEMENTS, CITY MANAGER REPORT**

- 7.1 [ID 17-1324](#) Havasu Youth Advisory Council Presentation

Ms. Jerri Bracamonte and the Havasu Youth Advisory Council (HYAC) gave a presentation to the Council on how they were able to influence the community and make a large impact with "Project We Outcare" to improve teacher retention in Lake Havasu City. She said HYAC has been asked by the League of Arizona Cities and Towns and the Center of Future Arizona to be key speakers at the Youth Program during the Annual League of Arizona Cities and Towns conference in August. She said their presentation will tell their story and how they set out to be change agents in the community through [www.projectweoutcare.com](http://www.projectweoutcare.com).

- 7.2 [ID 17-1308](#) Investment Report at June 30, 2017

Mayor Nexsen noted that this was for informational purposes only.

- 7.3 [ID 17-1315](#) Announce Vacancies on Lake Havasu City Boards, Committees, and Commissions

City Clerk Kelly Williams announced the current vacancies on various Lake Havasu City Boards, Committees, and Commissions.

- 7.4 [ID 17-1316](#) City Manager's Report

City Manager Charlie Cassens reported on the following:

- HavasuNOW Application
- Sales Tax Updates
- Code Enforcement Updates. There are currently 46 open cases.
- Building Permit Updates.

## 8. PUBLIC HEARINGS

### 8.1 [ID 17-1290](#) Series #10 Liquor License, London Bridge Market, 781 Lake Havasu Avenue North/Merrett

Ms. Williams advised that Lauren Kay Merrett has applied for a Series #10 liquor license for London Bridge Market, located at 781 Lake Havasu Avenue North. Ms. Williams said all posting requirements have been met, all fees have been paid, and no objections were received. Ms. Williams noted that during the new Development Code adoption process in 2016, this property was rezoned from M-1P District to Light Industrial District. She said the Light Industrial District does not currently allow alcohol sales; however, staff determined this to be an oversight and will be addressing the issue through a code amendment. Ms. Williams advised that staff considers the continued sale of liquor at this location a legal, non-conforming use until the code is amended. She said staff recommends approval of this liquor license.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

**Councilmember Sheehy moved to recommend that the Arizona Department of Liquor Licenses & Control approve a Series #10 liquor license for London Bridge Market, 781 Lake Havasu Avenue North, seconded by Councilmember McCoy, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

### 8.2 [ID 17-1297](#) Series #12 Liquor License, El Mariachi Mexican Restaurant, 141 Swanson Avenue #5/Vazquez Sarmiento

Ms. Williams advised that Jesus Erik Vazquez Sarmiento has applied for a Series #12 liquor license for El Mariachi Mexican Restaurant, located at 141 Swanson Avenue #5. Ms. Williams said all posting requirements have been met, all fees have been paid, and no objections were received

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

**Councilmember McCoy moved to recommend that the Arizona Department of Liquor Licenses & Control approve a Series #12 liquor license for El Mariachi Mexican Restaurant, 141 Swanson Avenue #5, seconded by Councilmember Lane, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

**8.3**     [ID 17-1304](#)   Series #07 Liquor License, Lake Havasu Golf Club, 2500 Clubhouse Drive/Lewkowitz

Ms. Williams advised that Andrea Dahlman Lewkowitz has applied for a Series #07 liquor license for Lake Havasu Golf Club, located at 2400 Clubhouse Drive. Ms. Williams said all posting requirements were met, all fees were paid, and no objections were received. Ms. Williams advised the Council that the correct address when making the motion should be 2400 Clubhouse Drive.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

**Councilmember Lane moved to recommend that the Arizona Department of Liquor Licenses & Control approve a Series #07 liquor license for Lake Havasu Golf Club, 2400 Clubhouse Drive, seconded by Councilmember Lin, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

**8.4**     [ID 17-1306](#)   Series #12 Liquor License, Lake Havasu Golf Club, 2500 Clubhouse Drive/Lewkowitz

Ms. Williams advised that Andrea Dahlman Lewkowitz has applied for a Series #12 liquor license for Lake Havasu Golf Club, located at 2400 Clubhouse Drive. Ms. Williams said all posting requirements were met, all fees were paid, and no objections were received. Ms. Williams again advised that the correct address when making the motion is 2400 Clubhouse Drive.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

**Councilmember Sheehy moved to recommend that the Arizona Department of Liquor Licenses & Control approve a Series #12 liquor license for Lake Havasu Golf Club, 2400 Clubhouse Drive, seconded by Councilmember Groat, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

- 8.5** [ID 17-1300](#) Introduce Ordinance No. 17-1184 Amending Lake Havasu City Code Section 8.16.130, Mooring in Channel, to Include City Parks and Section 11.06.330, Launching Watercraft and Overnight Mooring Prohibited, to Remove Mooring

Police Chief Dan Doyle advised that the City Code currently addresses no mooring between the hours of 11:00 p.m. and 5:00 a.m. in two areas; 1) the Bridgewater Channel and 2) London Bridge Beach and Rotary Park. He said the difference between the two is that no mooring in the Bridgewater Channel between those hours is a civil citation and no mooring in the City parks, including London Bridge Beach and Rotary Park, are addressed in an ordinance that makes it a criminal matter. He said this can be confusing for the officers on what type of citation to write depending on where they are located, and sometimes a few feet is the difference between whether someone is in the Bridgewater Channel or in the park. He said this also creates some confusion for the public; therefore, to rectify this, staff is recommending introduction of an ordinance to move “no mooring in City parks” from Section 11 to Section 8, and leave no launching of watercraft in City parks in Section 11.

Mayor Nexsen clarified that this would make both actions of mooring between the hours of 11:00 p.m. and 5:00 a.m. a civil citation, to which Chief Doyle replied yes.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

**Councilmember Sheehy moved to Introduce Ordinance No. 17-1184 amending Lake Havasu City Code Section 8.16.130, Mooring in Channel, to include City Parks and Section 11.06.330, Launching Watercraft and Overnight Mooring Prohibited, to remove mooring, seconded by Councilmember Groat, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

- 8.6** [ID 17-1302](#) Adopt Ordinance No. 17-1185 Approving a Request to Rezone Tract 2194, Block 7, Lots 5-7, 1536, 1540, and 1546 El Camino Drive, From C-1 (Limited Commercial District) to C-2 (General Commercial District)

Senior Planner Stuart Schmeling advised that the zoning request before the Council includes three lots located on the corner of El Camino Drive and Alley 21. He said this area has generally been turning to heavier commercial uses. Mr. Schmeling added that the Planning Commission recommended unanimous approval of this rezone ordinance.

Councilmember Sheehy asked if there was any objection from the neighborhood, to which Mr. Schmeling said the City did not receive any objections by mail or at the Planning Commission meeting.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

Councilmember Lane asked what the applicant was proposing to develop on the lots, to which Mr. Jim Carlo said they are going to enclose it and use it for outside storage to park recreational vehicle (RV) rental trailers.

**Councilmember Lane moved to adopt Ordinance No. 17-1185 adopt Ordinance No. 17-1185 rezoning Tract 2194, Block 7, Lots 5-7 from C-1 (Limited Commercial District) to C-2 (General Commercial District), seconded by Councilmember McCoy, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

- 8.7** [ID 17-1298](#) Approve Master Service Agreement with Level 3 Communications to provide Voice and Data Communications for City Operations

Information Technology Manager Jonathan Baskette advised that the purpose of the Master Service Agreement (MSA) is to essentially switch the City's voice and data services to a new enterprise carrier with more services and increase bandwidth to support future Wi-Fi, systems for public safety, operations, and other administrative areas. He said currently the City has maxed out the available bandwidth and has looked at adding capacity through the City's current carrier; however, it was not cost effective nor did they have the services that the City was looking for. Mr. Baskette said Level 3 Communications is an enterprise carrier and has the largest data network in the world. He

added that, fortunately, Level 3 has a network running adjacent through the City connecting Las Vegas to Phoenix with a data center at both ends. He said Level 3 will be able to provide a service to meet the City's needs at a cost effective rate.

Mr. Baskette said the proposed Level 3 services include:

- Two, 1-gig internet connections. The City currently has a 50 megabyte internet connection. A gig is equal to 1,000 megabytes. The two, 1-gig connections are equal to 2,000 megabytes, an increase of forty (40) times.
- DDOS Mitigation for all incoming internet traffic. This service scans all internet traffic prior to reaching the network and quarantines possible threats.
- 1-gig secured private connection to Microsoft AZURE cloud services to support data backup and disaster recovery.
- Voice complete package – allows the City to convert all analog phone lines to digital and includes 50,000 prepaid long distance minutes.

Mr. Baskette said staff analyzed the cost of transitioning service providers and determined that the cost will increase by \$1,804 more per month, or \$21,548 more a year.

Councilmember Groat questioned the extended capacities offered under the contract and whether it could support future services, to which Mr. Baskette said that is why the City has not gone to London Bridge Beach at this point because the City does not have the capacity. He noted that the City has the infrastructure but cannot expand services.

Councilmember Groat said moving forward if the City wants to expand services it will need the underlying backbone, to which Mr. Baskette replied yes. Councilmember Groat asked about the DDOS mitigation, to which Mr. Baskette said Level 3 has scrubbing centers at the Internet Services Provider (ISP) and would scan all internet traffic prior to reaching the network and quarantine possible threats at the ISP and notify City staff.

Councilmember Sheehy asked what the term of the contract would be, to which Mr. Baskette replied five years.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

**Councilmember Groat moved to approve the Master Service Agreement between Lake Havasu City and Level 3 Communications, seconded by Councilmember Sheehy, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

**8.8**     [ID 17-1280](#)     Award Agreement for Professional Services for SARA Park Sports Complex to Shepard-Wesnitzer, Inc.

Assistant City Engineer Jeremy Abbott advised that before the Council is a design contract with Shepard-Wesnitzer to start the design phase of the SARA Park Sports Complex.

Mr. Abbott reviewed the following:

- Overall Schedule
  - o Design (Total 7 Months) – March 2018
  - o Construction Scheduled for FY 2018-19
- Current Budget \$14.26 million (Phase I)
- Professional Services Contract \$630,000
  - o 3% of total Construction Cost

He said the professional services contract is lower than the typical design services contract for a couple of reasons; 1) the master planning effort that Shepard-Wesnitzer completed last year, 2) the complexity from an engineering standpoint is a lot less, and 3) the economy of scale in regards to the overall budget for the sports complex is typically eight to ten percent.

Mr. Abbott reviewed the following major design tasks:

- Drainage Design
- Construction Plans
  - o Grading/Drainage
  - o Hardscape
  - o Landscape
  - o Irrigation
  - o Water/Wastewater Systems (Septic)
  - o Lighting/Electrical
  - o Restroom/Concession/Maintenance Building
- Cost Estimating
- Specifications
- Bid Services

Mr. Abbott stated that the amount of grading in the master plan explains why Phase I is more expensive than Phase II. He said that is because the goal moving forward is to design the entire sports complex as a whole, and construct Phase I with mass grading for the entire site. He said doing this will have a better mass balance with the grading and overall reduce costs in grading the site as a whole.

Mr. Abbott reviewed the following:

- Phase I Amenities



- o 4 New Ball Fields (Softball/Little League)
  - o 2 New Multi-Use Fields
  - o Restrooms/Concession
  - o Shade Structures
  - o Bleachers
  - o Playground
  - o Maintenance Storage
  - o Parking
  - o Lighting
- Phase I & II Amenities
    - o 1 New Ball Field (High School/College)
    - o 6 New Multi-Use Fields
    - o Restrooms
    - o Shade Structures
    - o Bleachers
    - o Playground
    - o Maintenance Storage
    - o Parking
    - o Lighting

Mr. Abbott provided a slide that showed the new proposed sports complex in relation to the existing facilities. He reviewed the sites of the current fields, Havasu 95 Speedway, Sterling RC Field, and 928MX Track. He said some of the current uses will be affected by the new sports complex. He said communication between City staff and the users has already underway in preparation for this project.

Councilmember Lane asked if there was a place for the Sterling RC Field to move and have the same amenities as they do today, to which Community Investment Director/City Engineer Greg Froslic said staff has met with the 928MX Track and Sterling RC Field groups. He said currently on the Master Plan there is a space allocated for the Sterling RC Field. He noted that they are currently in a spot that is not allocated for them; however, both groups have been cordial and feel that they can co-exist in the same area.

Mayor Nexsen said he also met with the 928MX Track and stated that their contract is scheduled to end in February of 2018; however, the City has agreed to extend it until the end of their season to make it easier for them. He said, in terms of cost and moving, they have very little facilities as it was mostly donated, and the City would help with moving fencing or a building if needed.

Councilmember Lane asked who would be responsible for moving and bearing the cost of

the 928MX track and also the Sterling RC track and helicopter pad, to which Mr. Froslic said the groups would be responsible.

Councilmember Sheehy asked if those two groups were the only ones impacted, to which Mr. Froslic replied yes.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

Mr. Cassens said with the design of the sports complex, the City has the master plan and the study and is moving forward with this project; however, part of the consideration needs to include the ongoing maintenance and operation of the fields after it is built. He said those expenses are not protected by the Expenditure Limitation, and proposed that while the City move forward with the design of the fields and with the construction in next year's Capital Improvement Plan (CIP) budget, that the City wait until after the Primary Election in the Fall of 2018 when we have the outcome of the Expenditure Limitation. He said if the voters in the community elect not to allow for the removal of Expenditure Limitation from the way the City budgets, there will have to be a serious discussion about adding approximately \$500,000 to \$1 million a year to the City's operating costs while making severe cuts to satisfy the Expenditure Limitation.

Mayor Nexsen said if the Expenditure Limitation is not approved, the growth of this community will be stunted.

**Councilmember Lane moved to award the agreement for Professional Services for the SARA Park Sports Complex to Shepard-Wesnitzer, Inc., seconded by Councilmember Lin, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

**8.9** [ID 17-1309](#) Award Bid for the Wash Stabilization Improvements Bid Package #2 to C.S. Legacy Construction, Inc.

Project Manager Dustin Salisbury advised that the item before Council is to award bid for the Wash Stabilization Improvements Bid Package #2.

Mr. Salisbury reviewed the following:

- Construction Bid Advertised 6/15/2017
- Construction Bid Opened 7/13/2017
- Apparent Low Bidder – C.S. Legacy Construction Inc.

- Hillside Drain #5 & Daytona Wash #6 – Bed and Bank Improvement and Slope Stabilization
- 120 Day Contract (likely duration between 9/17/2017 – 1/2018)
- \$3,256,325

Mr. Salisbury said Hillside Drain #5 is bounded by Daniel Drive and Avalon Avenue, and Daytona Wash #6 is bounded by Bunker Drive, Tee Drive, and Daytona Avenue. He said improvements and stabilization techniques used for this project will be similar to what is currently being done at Havasupai Wash and Pima Wash.

There was discussion on the different stabilization techniques for the washes.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

Councilmember Lane asked if this project would stabilize 77 miles of washes, to which Mr. Salisbury said eventually the Master Plan provided by Dibble Inc., incorporates 77 miles of washes. Mayor Nexsen clarified that the \$3.2 million for this project does not cover 77 miles. Councilmember Lane asked how many miles this project would cover, to which Mr. Salisbury replied that it would cover approximately 1.5 miles.

Mayor Nexsen said he has discussed the washes with State legislators since they are under the jurisdiction of the Federal Government but they are not willing to help. He said unfortunately this is not uncommon in Arizona as other communities are facing similar issues.

**Councilmember McCoy moved to award the Schedule A Base Bid and Schedule B Additive Bid for the Wash Stabilization Improvements Bid Package #2 Project to C.S. Legacy Construction, Inc., seconded by Councilmember Groat, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

**8.10** [ID 17-1310](#) Award Agreement for Professional Services for the Wash Stabilization Improvements Bid Package #2 Project to Carollo Engineers, Inc.

Mr. Salisbury advised that the item before Council is to award an agreement for Professional Services for the Wash Stabilization Improvements Bid Package #2 to Carollo Engineers, Inc., in the amount of \$150,600. He said the length of the contract is 120 days with an expected completion in January of 2018.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

**Councilmember Lane moved to award the agreement for Professional Services for the Wash Stabilization Improvements Bid Package #2 Project to Carrollo Engineers, Inc., seconded by Councilmember McCoy, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

**8.11 [ID 17-1307](#) Approve Sole Source Purchases of Wastewater Treatment Plant Parts from Schreiber, LLC**

Utilities Superintendent Andy Astor advised that this item requests the Council's approval of sole source purchases for Wastewater Treatment Plant parts from Schreiber, LLC. Mayor Nexsen asked if the City is able to find aftermarket parts, to which Mr. Astor replied no.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

**Councilmember Lane moved to approve the Sole Source purchases for Wastewater Treatment Plant parts from Schreiber, LLC, seconded by Councilmember Sheehy, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

**8.12 [ID 17-1312](#) Award Bid for Maintenance Street Sweeping to Swept Away LLC**

Transportation and Maintenance Superintendent Mark Clark advised that this item is to award the annual maintenance street sweeping contract to Swept Away LLC. He said they are a new bidder this year but the City received good references. He said the award is for three years and includes the option to renew for two additional twelve-month terms. He added that the award includes two sweeps, one in October and one in the spring, but also includes the option for a third sweep if needed.

Councilmember Sheehy asked how the City plans to augment the sweeping services throughout the year, to which Mr. Clark said the City will still provide street sweeping using City equipment. He said the contract does not provide storm cleanup sweeping, so

there may be times when the City has to do storm cleanup and the contractor may be pushed out a month or two after to sweep the entire area. He said the City has one operating pick-up sweeper and a couple of kick brooms to take care of emergency cleanups and critical areas as needed.

In response to Councilmember Lane's question, Mr. Clark explained that there are local vendors who are contracted to do smaller street sweeping jobs; however, there is no one local that can cover the entire area.

Mayor Nexsen opened the public hearing. There being no comments, he closed the public hearing.

**Councilmember Sheehy moved to award the bid for maintenance street sweeping to Swept Away LLC and authorize a three-year term contract with an option to renew a maximum of two additional twelve-month terms, seconded by Councilmember Groat, and carried by the following vote:**

**Aye:** 6 - Mayor Nexsen, Councilmember McCoy, Councilmember Sheehy, Councilmember Lin, Councilmember Lane and Councilmember Groat

**Absent:** 1 - Vice Mayor Coke

**8.13** [ID 17-1265](#) Presentation and Discussion Regarding Verification of Payment to Qualified Organizations Under a Special Event Liquor License

City Attorney Kelly Garry said the Council asked for an item to discuss the verification of payment to qualified organizations under a Special Event Liquor License. She said staff will present some brief background information as well as some results of inquiries from other cities to help assist the Council in the discussion of this item. She said the statute for Special Event Liquor Licenses was amended during the recent legislative session and goes into effect tomorrow; therefore, staff will discuss some of those changes. She noted that the Arizona Department of Liquor License and Control (ADLLC) does not have the applications completed or the new rules so there are some areas that staff is uncertain as to whether there will be any changes. She said the good news is that there are some changes that seem to be responsive to some of the concerns that have been brought up.

Ms. Garry reviewed the following in her presentation:

- Special Event Liquor Licenses are issued by the ADLLC and are temporary and non-transferrable.
- Must be approved by the Local Government when held in a location that does not have a liquor license
- Applicants are limited – they are currently defined as a “charitable, civic, fraternal, political, or religious organization” as defined in state statute and known as the

“qualifying organization”. Under the new law it is very specific on being formally organized and includes “a new non-profit entity that is organized as a non-profit corporation, LLC, trust, or other entity eligible for designation as a 501(c) under the Internal Revenue Code.”

- Qualifying organizations will not be granted Special Event Liquor Licenses for more than 10 days in a calendar year. Unknown at this time if this will change.
- Locations that do not have an active or permanent liquor license are limited to 12 Special Event Liquor Licenses annually. Under the new law, this changed to a total of 30 days annually.
- Licensed locations or government owned/controlled locations have no limitations.
- Under the new law, an applicant can agree with a “Special Event Contractor” to assist the applicant in selling and serving liquor at a special event. This was previously known as a “promoter” and is now being changed to a “Special Event Contractor.”
- Special Event Contractors must be specifically listed on the application but also must provide identification and background information sufficient for the ADLLC to be able to verify their identity and must also provide proof of authority to conduct business in Arizona. This may also include that the ADLLC can ask for proof that they have received state and local permits that may be required. The ADLLC will also keep a list of the Special Event Contractors that are in good standing.
- Applicants may be required to demonstrate they are qualified, capable, and reliable to conduct special events, and may also require training for new servers that are in conjunction under a new Special Event Contractor or applicant.
- Violations may result in limiting the ability of the applicant or the contractor to receive special event licenses for period up to one year. There are new provisions that allow the ADLLC to examine the books, records and papers related to a license and the Special Event Contractor.
- Qualifying organizations must receive at least 25 percent of the gross revenue of all liquor sales sold during the special event.
- Application must include a contract between the applicant and the Special Event Contractor.

Special Event Coordinator Brian Allen explained his involvement with Special Event Liquor Licenses. He said he is typically contacted by the promotor or the non-profit for the event and he will go over the process, the application, and the fees with the applicant. He said the applications are often returned by mail, hand-delivered, or they will come in to discuss the application. He said he notifies the applicant, who is the non-profit organization listed on the application, that they are the only ones that the ADLLC will contact with questions or concerns. He said the ADLLC does not notify him or the promotor, which there have been a few instances where this has caused issues. He said applications must be

submitted to the City at least two weeks prior to a City Council meeting to get it placed on an agenda; however, this does not always happen. He said once the local governing body has approved any application, he mails the application to the ADLLC, who requires that it be received at least 10 working days prior to the event. He said recently the Council made changes to the Special Event Liquor License application approval and disapproval process so that they no longer have to go before the City Council, which has streamlined the City's review and approval process. He said in some cases the non-profit handles everything, and in other cases it's the promoter that wants to control everything because they think it's their license; but it is not, the license belongs to the applicant/non-profit.

Ms. Williams said staff researched what other cities and towns were doing and did not find any that had a process for verification of payment to non-profits for Special Event Liquor Licenses. She said City staff had learned that the Mohave County Board of Supervisors (County) created a process for verification of payment to non-profits. She said the County had indicated that they send an informal notice to the 3rd party organizers, now known as the contractors, requesting verification of payment. Ms. Williams said staff also learned that Special Event Liquor License complaints can be filed with the ADLLC where the complaint is turned over to their investigators. Ms. Williams said, under the new law effective tomorrow, if a violation is found the ADLLC may limit the right of the licensee to obtain a special event liquor license for a period up to one year or may limit the right of the Special Event Contractor to support any licensed special event for a period up to one year.

Mayor Nexsen said for clarification the County sends a notice asking for verification, to which Ms. Garry said they send a notice basically asking them to sign for verification but not an audit for verification. Mayor Nexsen said there is really no way of knowing whether the non-profits receive the correct amount, to which Ms. Garry said that was correct.

Councilmember Sheehy asked Ms. Garry if the City knew what type of information that ADLLC would require to be able to determine the identity and authority of a person, to which Ms. Garry said as far as providing the background and identification that was specifically for the Special Event Contractor to prove that they are licensed to do business in Arizona. She said as far as what they are going to require for the non-profit entities that are organized, they will have to be organized as a non-profit corporation, LLC, or trust with the State.

Councilmember Sheehy asked if someone would have to apply to be a contractor, to which Ms. Garry explained that the contractor is the same as the promoter. She said the City is not certain how all of the rules and laws regarding the contractor are going to fall, but are assuming that the Special Event Contractor is going to be the promoter for all purposes.

Councilmember Lin asked if the City could send a notice similar to the County and then if they do not provide verification they could disapproved future Special Event Liquor License applications, to which Ms. Garry said that the City only provides a recommendation to the ADLLC; therefore, she is not certain the City could recommend non-approval for that purpose or reason. She said the City has not been granted any authority as far as examining the books or records, or whether it is permissible for municipalities or the counties to ask for that information. She noted that it does not mean that we would not be able to, but the City is only aware of one place that is doing it and it does not appear to be very much. Ms. Garry said regardless she is not certain doing so would address any of the issues or concerns.

Mayor Nexsen said what he heard is that the applicant, the non-profit, can file a complaint with the ADLLC who holds all the authority, to which Ms. Garry said absolutely and that is what Ms. Williams spoke a little about is that complaints are reported to the ADLLC to investigate it and they have now added all these new tools and requirements that would allow them to do this investigation.

Councilmember Lane asked if the City has ever received a complaint, to which Ms. Garry said not formally that she is aware of; however, there have been comments and concerns in respect to the things that are being discussed today related to the overall process. Councilmember Lane said the City's process should be to direct complaints to the ADLLC so that they can investigate.

Councilmember Lin said one concern that was brought to her attention was regarding a non-profit board member who was not aware that an application with a particular promoter was submitted without the board's approval. She said this member felt that it should not have been processed without the board's approval, to which Mayor Nexsen said that is a board issue and not a City or State issue.

Ms. Garry said the parties are still required to enter into a contract and supply that with their application. She said the contract is going to specify that the non-profit is to be paid 25 percent of the proceeds; therefore, regardless of the verification process at the State level, the non-profits still have a contract claim against the other party if they are not paid. Ms. Garry said the contract really is the best remedy for those parties and said the City will not put itself in the middle of that contract.

Mayor Nexsen asked how the process works when there is a promoter in control of the event, to which Mr. Allen said the contract will outline the responsible parties and who will run the concession and count the money. He said in some cases when the applicant is not running the event, they may have one of their board members behind the concession



monitoring what is taking place. Mayor Nexsen said requested that the City, as a courtesy, remind the non-profits to do that, to which Mr. Allen said absolutely. Mr. Allen said he has never received a complaint, but he has heard complaints about a special event that was not on City property.

Councilmember Lin asked how the City verifies board members. Mr. Allen said most of the applications he receives are signed and notarized, and the notarization is confirming that the signatures are correct and true. He said he is familiar with most of the non-profit organizations and has only received a few applications with organizations from out of state since they do not need to be local or from Arizona. Mr. Allen said if they are from out of state he will do a non-profit check.

Councilmember Sheehy said he had no concerns with the process as it is and feels it is the non-profit's responsibility to know what their rights are and should hold their promoter/contractor accountable.

Mayor Nexsen asked that staff brief the Council on the new rules once they go into effect.

## **9. CURRENT EVENTS**

There were no council committee reports.

## **10. CALL TO THE PUBLIC**

Ms. Frankie Lyons, Veterans United Arizona, addressed the Council and asked if there was a time limit on when the non-profits must be paid. Ms. Garry said there isn't a time limit in the statutes but hopefully in the contract between the two parties it specifies when payment must be made.

## **11. FUTURE MEETINGS**

Tuesday, August 22, 2017 @ 6:00 p.m. – Regular Meeting - Canceled

Tuesday, September 12, 2017 @ 6:00 p.m. – Regular Meeting

Tuesday, September 26, 2017 @ 6:00 p.m. – Regular Meeting

Ms. Garry advised that the public hearing was not opened for Item 8.13.

Mayor Nexsen opened the public hearing for Item 8.13. There being no comments, he closed the public hearing.

## **12. FUTURE AGENDA ITEMS**

There were no requests for future agenda items.

## **13. ADJOURN**

Upon motion by Councilmember McCoy and seconded, the meeting adjourned at 7:47 p.m.

CERTIFICATION

I hereby certify that the foregoing is a full and true copy of the Regular Meeting Minutes of the Lake Havasu City Council held on the 8th day of August, 2017. I further certify that the meeting was duly called and posted, and that a quorum was present.

---

Kelly Williams, City Clerk/CMC