

**TOWN OF PAYSON
TOWN COUNCIL MEETING
MINUTES OF THE REGULAR MEETING
January 20, 2011**

CALL TO ORDER

Mayor Evans called the regular meeting to order at approximately 5:30 p.m. in the Town Hall Council Chambers, 303 N. Beeline Highway, Payson, Arizona.

INVOCATION

Harold Fleeger, U-Turn for Christ, led the meeting in an invocation.

PLEDGE OF ALLEGIANCE

PRESENT: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

STAFF PRESENT: Debra Galbraith - Town Manager, Tim Wright - Town Attorney, Don Engler - Police Chief, Silvia Smith - Town Clerk, LaRon Garrett - Public Works Director, and Cameron Davis - Parks, Recreation and Tourism Director.

OTHERS PRESENT: Gaye Stidham - Deputy Town Clerk, Hope Cribb - Finance Manager, Ray LaHaye - Chief Building Official.

A. PUBLIC COMMENTS (SPEAKER'S REQUEST FORM SUBMITTED)

1. Communications and comments or suggestions from citizens present who have submitted a Speaker's Request Form to the Mayor, Town Clerk, or designee, prior to the meeting being convened, concerning matters other than those listed on the agenda for consideration, shall be heard by the Council.

Tom Loeffler briefed the Council concerning the Community Collge. The Gila County Board of Supervisors met on Tuesday concerning the College and supported by resolution an independent Community College District. All Board policies were repealed at their last meeting which has caused some concerns for safety and liability. Their next meeting will address these concerns.

Steven Hofman distributed information of the Council concerning a group of business people who have joined together to operate a medical marijuana dispensary in Payson. He said he would submit a professionally prepared plan to the Town of Payson that illustrates their qualifications in detail. Council Member Blair asked if their pledge of percentage of profits going to local charities would be in writing. Mr. Hofmann said their group would agree to a firm number that would be subject to audit.

B. CONSENT AGENDA

Items listed on the agenda with an asterisk which are considered to be routine in

nature and which will be enacted by one motion.

Motion: to approve the CONSENT AGENDA.

Moved by Council Member John Wilson, seconded by Council Member Su Connell.

Vote: Motion carried 7 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

C. CURRENT EVENTS PRESENTATION BY THE TOWN MANAGER, MAYOR, AND/OR COUNCIL MEMBER

1. Brief presentation of current events by the Town Manager, Mayor, and/or Council Members. The Arizona Open Meeting Law specifies that the Town Council may not discuss or take action on any matter mentioned during this presentation or on the attached materials unless the specific matter is properly noticed for legal action.

Cameron Davis reported his department was planning the event calendar for 2011. So far, 65 different events are planned for Parks & Recreation and Tourism. The Everstart Series Bass Tournament (formerly FLW tournament) is scheduled for February 16 through 19, 2011. The WON bass tournament will be the weekend before. There are talks of another tournament in July.

2. Documents, materials and information for Council review. (The Council will not discuss or take action on the attached; they are provided for information only) There were no documents for review.

D. CEREMONIAL; ANNOUNCEMENTS; PRESENTATIONS; INTRODUCTIONS

1. Comments, Commendations, and Presentations by Mayor, Council Members, and/or Town Staff. There were no comments or commendations.
2. Presentation by Vice-Mayor Michael Hughes regarding discussions between the Town and the Payson Regional Airport Authority (PRAA) on the airport lease and operations at the airport.

Mayor Evans complimented Vice-Mayor Hughes for his diligence in representing the Town with the PRAA. Vice-Mayor Hughes returned the compliment, thanking staff, LaRon Garrett, Tim Wright and Debra Galbraith for their hard work, research and team effort with this project. Vice-Mayor Hughes reported that they met together several times in preparation for a meeting with the PRAA on December 7, 2010, to discuss issues that have arisen with this unique lease. One of the issues is the continuing sole responsibility of the Town for compliance and matching funds with the FAA. The lease did not have provisions for resolution of disputes between the Town and the PRAA. Vice-Mayor Hughes voiced his feeling that good progress was made at the December meeting. The PRAA is reviewing the information and will call to schedule another meeting. He said he was very encouraged with the cooperation between the Town and the PRAA.

E. MINUTES

1. * Council Meeting Minutes:
01.06.11 Regular Council Meeting Pages 1 -9
CONSENT APPROVED

BOARDS/COMMISSIONS MEETING MINUTES (Note: Minutes of various boards/commissions/committees are for Council information only and may or may not have been approved by the respective board/commission.

2. * Parks and Recreation Commission Minutes:
10.13.10 Regular Meeting Pages 1 -4
CONSENT INFORMATON ONLY

F. HEARINGS AND APPEALS

1. There are no items in this section.

G. RESOLUTIONS AND ORDINANCES

1. * As Council, staff, and the audience have the titles to all resolutions and ordinances, authorization to forego verbal title readings.
CONSENT APPROVED

2. Public Hearing on Resolution 2586 and Ordinance 795.

A. Discussion/possible action concerning Resolution 2586, captioned as follows:
A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ENACTING REASONABLE ZONING REGULATIONS LIMITING THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES BY AMENDING PORTIONS OF SECTION 15-11 AND 15-12 AND ADDING SECTION 15-15 OF THE UNIFIED DEVELOPMENT CODE, AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD. (MEDICAL MARIJUANA DISPENSARIES REGULATIONS).

B. Discussion/possible action concerning Ordinance 795, captioned as follows:
AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ENACTING REASONABLE ZONING REGULATIONS LIMITING THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES BY AMENDING PORTIONS OF SECTIONS 15-11 AND 15-12 AND ADDING SECTION 15-15 OF THE UNIFIED DEVELOPMENT CODE. (MEDICAL MARIJUANA DISPENSARIES REGULATIONS). Second Reading and Public Hearing.

Mayor Evans opened the pubic hearing. Attorney Wright pointed out that the definition of cultivation locations and their zoning restrictions was added since the first reading. There were no other comments and Mayor Evans closed the public hearing.

Motion: to Approve Resolution 2586 captioned as follows: A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ENACTING REASONABLE ZONING REGULATIONS LIMITING THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES BY AMENDING PORTIONS OF SECTION 15-11 AND 15-12 AND ADDING SECTION 15-15 OF THE UNIFIED DEVELOPMENT CODE, AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD and Ordinance 795 captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ENACTING REASONABLE ZONING REGULATIONS LIMITING THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES BY AMENDING PORTIONS OF SECTIONS 15-11 AND 15-12 AND ADDING SECTION 15-15 OF THE UNIFIED DEVELOPMENT CODE. (MEDICAL MARIJUANA DISPENSARIES REGULATIONS).

Moved by Council Member John Wilson, seconded by Council Member Su Connell.

Vote: Motion carried 7 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

3. First Reading and Public Hearing concerning Ordinance 796, captioned as follows: AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTIONS 90.04 AND 90.17 AMENDING THE DEFINITION OF AND CARE PROVIDED TO EXOTIC ANIMALS. (EXOTIC ANIMALS). First Reading and Public Hearing.

Mayor Evans opened the public hearing. Shannon Long, owner of Exotic Pets, distributed statistics he accumulated concerning injuries and deaths by exotic reptiles versus other causes of death. He disputed that exotic animals were a safety risk for the community. He believed this ordinance would dramatically impact his business and opposed the ordinance.

Mayor Evans clarified that this ordinance dealt with the care and definition of exotic animals and not necessarily addressed as a public health and safety matter.

Chief Engler explained for Council Member Connell that incidents of abuse would be investigated as criminal matters and animals may be taken into custody if deemed in danger.

Council Member Carpenter noted the existing exotic animal provisions. Attorney Wright pointed out changes in reference to poisonous reptiles, the limit on the length of snakes and permits for defined exotic animals. Currently the exotic animals provisions require consent by the Police Chief. This change would broaden the definition and asked the Chief (or his delegate) to take an additional step concerning their care. Chief Engler said there were no current permits active from either a business or personal owner for exotic animals.

Mayor Evans explained that the desire is to exercise a slightly higher order of care for larger animals that would cause anxiety to the general public. Mr. Long said he

sold king snakes longer than the exotic animal description and this would put restrictions on their ownership, needing a special permit that was difficult to obtain.

Chief Engler explained that the intent was not to create a special permit with unreasonable costs but to provide the special care for large, exotic animals that have higher care requirements than other pets.

Mayor Evans closed the public hearing.

H. UNFINISHED BUSINESS There are no items in this section.

I. NEW BUSINESS

1. Council Decision Request filed by Tim Wright, Town Attorney, re potential limited deferral of development impact fees for residential developments pursuant to A.R.S. § 9-463.05.

Attorney Wright explained the request saying the attached development agreement could be used as a model. The Council would not be guaranteeing deferred fees but allowing for individual requests to come back to Council. Residential development agreements would most likely be used by developers with multiple units so that fees could be paid as units are sold. A posting of bond, cash or a line of credit as collateral would be required. The Water Department has also requested that if the fees for some reason are not paid before the dwelling is occupied, water service would be turned off.

Motion: to Approve a Council Decision Request filed by Tim Wright, Town Attorney, to direct Town staff to work with residential developers to allow limited deferral of development impact fees pursuant to A.R.S. § 9-463.05, use the attached form development agreement as a model for such limited deferrals, and prepare amendments to the Town Code and Town Ordinances as may be necessary to implement such limited deferrals.

Moved by Council Member Fred Carpenter, seconded by Council Member John Wilson.

Council Member Blair voiced his concern about Alternate #2 section 4.5. believing that liquidating lots or placing liens on property could put the Town at risk.

Mayor Evans noted that developers had other mechanisms and the Town would not have to accept lots as collateral.

Motion: to Approve amending the motion to delete Alternate #5, Section 4.5, from the model development agreement.

Moved by Council Member Ed Blair, seconded by Council Member Fred Carpenter.

Vote: Motion carried 7 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

Motion: to Approve the amended motion to approve a Council Decision Request filed by Tim Wright, Town Attorney, to direct Town staff to work with residential developers to allow limited deferral of development impact fees pursuant to A.R.S. § 9-463.05, use the attached form development agreement as a model for such limited deferrals deleting Alternate #2, Section 4.5, and prepare amendments to the Town Code and Town Ordinances as may be necessary to implement such limited deferrals.

Moved by Council Member Fred Carpenter, seconded by Council Member John Wilson.

Vote: Motion carried 7 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

2. Council Decision Request filed by Ray Erlandsen, Community Development Director, re request made by Payson Area Habitat for Humanity to waive the permit fees for phase III of Habitat's Longhorn Village Community at 805 West Longhorn Road in the amount of approximately \$7,211.06.

Ray LaHaye, Chief Building Official, explained that Habitat for Humanity's previous phases for the Longhorn Village project had fees waived administratively after being approved through the budget process. The process for allowing waivers has changed and requires Council action.

Council Member Croy voiced his concern about financially supporting through tax dollars a non-profit organization when the Town no longer supports others.

Council Member Carpenter explained that, although he appreciated Council Member Croy's comments, his support for affordable housing would cause him to disagree.

Motion: to Approve a Council Decision Request filed by Ray Erlandsen, Community Development Director, re request made by Payson Area Habitat for Humanity to waive the permit fees for phase III of Habitat's Longhorn Village Community at 805 West Longhorn Road in the amount of approximately \$7,211.06.

Moved by Council Member Fred Carpenter, seconded by Council Member John Wilson.

Council Member Connell suggested splitting the fee cost.

Mayor Evans asked if water credits were available to use for water impact fees on Phase III. Mr. Garrett answered that there were some water credits available but the life on these credits ended April 13, 2010. Their value now is what was paid for them. \$19,200 is budgeted in the Town budget to pay for the difference in these credits and the remaining cost of impact fees. Manager Galbraith explained the budget process and how the cost had risen closer to \$22,000.

Christine Royer with Habitat for Humanity explained their investment in Longhorn Village. She believed Habitat had made a healthy investment already in affordable

housing in Payson.

Ross Hague with Habitat for Humanity said that this project began in 2006 when the economic climate was much different and land prices were very high. A grant they received requires completion of the project by June. Their goal is to build sustainability in their budgeting and he did not foresee returning for help in future projects.

Vote: Motion carried 4 - 3

Yes: Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, and Council Member John Wilson.

No: Mayor Kenny J. Evans, Council Member Su Connell, and Council Member Richard Croy.

3. Council Decision Request filed by LaRon Garrett, Public Works Director, re proposed traffic control plan, potentially including jersey barriers, in the 1000 block of South Lakeview Drive.

Public Works Director Garrett explained the need for the six barriers. They are \$500 each but could be used in the future in other areas of Town. He made inquiries to ADOT concerning the purchase of used barriers from them but has not heard back. He will use used ones if he can get them.

Motion: to Approve a Council Decision Request filed by LaRon Garrett, Public Works Director, re proposed traffic control plan, potentially including jersey barriers, in the 1000 block of South Lakeview Drive.

Moved by Council Member John Wilson, seconded by Council Member Su Connell.

Vote: Motion carried 7 - 0

Yes: Mayor Kenny J. Evans, Vice-Mayor Michael Hughes, Council Member Ed Blair, Council Member Fred Carpenter, Council Member Su Connell, Council Member Richard Croy, and Council Member John Wilson.

J. CLAIMS

1. * List of checks paid from December 30, 2010 through January 7, 2011, Check Nos. 012692 through 012705, and authorization to file the checks for audit.
CONSENT APPROVED

K. MISCELLANEOUS The following e-mail is on file in the Town Clerk's Office.

1. * Acceptance, with regrets, of the resignation of David Rutter from the Parks and Recreation Commission, with thanks for a job well done.
CONSENT APPROVED

L. PUBLIC COMMENTS

There were no further comments from the public.

ADJOURNMENT: Mayor Evans adjourned the meeting at approximately 6:48 p.m.

APPROVED:

_____ Date: _____

Kenny J. Evans, Mayor

ATTEST:

Regular Town Council Meeting

Certification

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the regular meeting of the Town Council of the Town of Payson held on this day the 20 of January, 2011. I further certify that the meeting was duly called and held and that a quorum was present.

DATED this ____ day of _____, 2011.

Gaye Stidham, City Clerk

Zoning Regulations Limiting Land Use for Medical Marijuana Dispensaries - Item G.2

Comment on zoning regulations limiting land use for medical marijuana dispensaries.

Introduction

Public Hearing on Resolution 2586 and Ordinance 795 (Second Reading).

A RESOLUTION AND ORDINANCE ENACTING REASONABLE ZONING REGULATIONS LIMITING THE USE OF LAND FOR REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARIES BY AMENDING PORTIONS OF SECTION 15-11 AND 15-12 AND ADDING SECTION 15-15 OF THE UNIFIED DEVELOPMENT CODE, AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD.

ALL COMMENTS

Dan Haapala outside of Payson

January 16, 2011, 11:15 PM

Resist the temptation to join this blatant attempt to circumvent federal law for the 'recreational use of marijuana.'

The states do not have the right to overrule the federal government on this issue, because of the Controlled Substances Act (CSA) (21 U.S.C. § 811) which does not recognize the difference between medical and recreational use of marijuana. This recently passed state law will go down in flames when challenged by the federal courts. Payson should resist political pressure to appease those who allow pot to be grown in our neighborhoods and community.

Dan Haapala. East Verde Park Inc. resident.

PRAA Update to Council

At the Oct. 7th meeting the council directed staff and Vice-Mayor Michael Hughes, Payson Regional Airport Authority Liaison, to meet and return a recommendation to the Council concerning the lease between Payson Regional Airport Authority and the Town.

Since that directive was issued, Town Manager Debra Galbraith, Town Attorney Tim Wright, Public Works Director LaRon Garrett, and I have met several times in preparation for a meeting with members of the PRAA board which took place on Jan. 7th.

The concept of a publicly owned municipal airport in which the operations are leased to a private non-profit organization is unique. Since this lease was implemented about 4 years ago there have been several issues arise that have exposed serious deficiencies in several provisions of the lease.

Two of the larger issues that the Town has identified;

When the Town of Payson transferred authority, responsibility and all revenues from operations at the airport to the PRAA, the Town remained the sole entity responsible to the FAA. This includes compliance with all FAA rules and mandates, resolution of any complaints brought to the FAA regarding the Payson Airport, and compliance with all provisions of any past, present, or future grants that are awarded to the Payson Airport by the FAA including matching funds.

The current lease does not provide any provisions for resolution of issues that may arise at the airport beyond notification and response between the PRAA and the Town.

Also several other technical provisions that need to be either changed or deleted for clarity and transparency between the parties of the lease.

At the Jan. 7th meeting we had a very open and frank discussion of the issues, possible changes and improvements to the lease. The group made good progress in many areas. We are still looking for answers to some of the issues.

Currently the PRAA is reviewing the information that was discussed. We will schedule another meeting in the next couple of weeks to continue work on revisions and improvements to the lease.

I am very encouraged with the current spirit of cooperation between PRAA and the Town. I believe that together we will be able to resolve the current shortfalls in the lease that will enable this unique partnership to improve and succeed.