

**TOWN OF PAYSON
PLANNING AND ZONING COMMISSION
MINUTES OF THE PUBLIC MEETING
December 13, 2010**

CALL TO ORDER

Chairman Goddard called the duly posted meeting of the Planning and Zoning Commission to order at 3:00 p.m. in the Town Council Chambers.

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT: James Scheidt, Russell Goddard, Joel Mona, Lori Meyers, Jeff Loyd, Clark Jones, and Mark Waldrop.

ABSENT: None

STAFF PRESENT: Sheila DeSchaaf, Planner II, LaRon Garrett, Public Works Director, Ray Erlandsen, Community Development Director, Tim Wright, Town Attorney, Police Chief Don Engler, and Gaye Stidham, Deputy Town Clerk.

Sheila DeSchaaf introduced Doni Wilbanks, new Planning Technician.

A. APPROVAL OF MINUTES

1. Public Meeting 9-13-10 Pages 1-6

Motion: Approve the minutes of the September 13, 2010, meeting.
Moved by James Scheidt, seconded by Clark Jones.

Vote: Motion carried 7 - 0

Yes: James Scheidt, Russell Goddard, Joel Mona, Lori Meyers, Jeff Loyd, Clark Jones, and Mark Waldrop.

- B. PUBLIC COMMENTS - Comments concerning items not on the agenda. Note: Those wishing to address the Planning and Zoning Commission during this time need not request permission in advance. Action taken as a result of public questions and comments shall be limited to directing staff to study the matter or rescheduling the matter and decision at a later date. There shall be no discussion regarding any issues presented.**

There were no comments from the public.

C. SCHEDULED HEARING(S)

1. A10-001 Abandonment Request
Filed by: Town of Payson; Public Works Engineer, LaRon Garrett
Location: 1008 - 1019 South Lakeview Drive

Purpose: To abandon a portion of the S. Lakeview Drive right of way between the south line of 1008 S. Lakeview Dr. and the south line of 1019 S. Lakeview Dr.

LaRon Garrett, Public Works Director, explained that the HOA from this area applied for the abandonment. The abandonment affects 14 lots plus the empty lot at the top of the hill. The Town historically designated South Lakeview Drive to tie into the Gold Nugget area and be a through road. The Town would recommend denial because of this, but, if approved, the Town asked for stipulations.

Chairman Goddard opened the public hearing.

Byron McKean said he owned 10 acres in the area. He was opposed to the abandonment because it would limit access to his lots and force traffic to Gold Nugget.

Chairman Goddard closed the public hearing.

Motion: To deny the abandonment request A10-001, a request to abandon a portion of the S. Lakeview Drive right of way between the south line of 1008 S. Lakeview Dr. and the south line of 1019 S. Lakeview Drive.

Moved by Joel Mona, seconded by James Scheidt.

Motion: Amend the motion adding the words "recommend to Council".

Moved by Joel Mona, seconded by James Scheidt.

Vote: Motion carried 7 - 0

Yes: James Scheidt, Russell Goddard, Joel Mona, Lori Meyers, Jeff Loyd, Clark Jones, and Mark Waldrop.

Motion: Recommend to the Council denial of abandonment request A10-001, a request to abandon a portion of the S. Lakeview Drive right of way between the south line of 1008 S. Lakeview Drive and the south line of 1019 S. Lakeview Drive.

Moved by Joel Mona, seconded by James Scheidt.

Vote: Motion carried 7 - 0

Yes: James Scheidt, Russell Goddard, Joel Mona, Lori Meyers, Jeff Loyd, Clark Jones, and Mark Waldrop.

2. P10-008 Unified Development Code Amendment

Filed by: Town of Payson

Location: All of Payson

Purpose: To amend the Unified Development Code (UDC) by creating reasonable zoning regulations limiting registered nonprofit medical marijuana dispensaries pursuant to A.R.S. 36-2806.01 as adopted by Section 3 of Proposition 203 (Arizona Medical Marijuana Act).

Tim Wright, Town Attorney, gave a brief overview of Proposition 203 describing some of the tensions and issues that staff wrestled with in providing this zoning amendment.

The Arizona Department of Health Services will be the major regulatory agency for medical marijuana dispensaries. Mr. Wright believed this agency would add more regulations in the future. He described the process beginning with the patient receiving a letter from their doctor that they could be helped by medical marijuana. The patient would then receive a picture identification and an assigned number from the Department of Health Services. Up to 2 1/2 ounces of medical marijuana could be dispensed to the patient per week, either in raw product or infused into other products. Each dispensary would require licensing from the Department of Health Services and must comply with the zoning laws of the municipality. The dispensary must also be a not-for-profit organization.

Mr. Wright said staff struggled with the issues of providing zoning for medical marijuana dispensaries as right of use or by the conditional use permit process. The conditional use permit would make the application for a dispensary an item before the Planning & Zoning Commission and the Town Council even before licensing by the Department of Health Services. This poses the possibility that the public hearing portion of the permit process could become political. Staff also considered where the zoning would be permitted; either strictly industrial or in commercial zonings. Some other communities are handling the zoning much like sexually oriented businesses mostly in industrial zoning. If there is not a dispensary within 25 miles, then patients are permitted to have as many as 12 plants for their use. Monitoring a licensed dispensary would be much simpler than monitoring what is grown in peoples' homes.

Chairman Goddard opened the public hearing.

Chief Engler spoke stating that while he would not encourage a dispensary, law enforcement would be easier with one. Misuse of individuals growing of marijuana was a higher risk. Some of the other conditions including disposal would be easier to monitor with a dispensary. Chairman Goddard asked if the Town was allowed to deny dispensaries. Town Attorney Wright said it was not as the state statute allows them.

In answer to questions posed by Commissioners, Town Attorney Wright explained that the Town's authority in regulating dispensaries was in zoning only. If there is not a dispensary within 25 miles of a patient, they are permitted to have as many as 12 plants in any zoning as long as they have a Health Services card. Prosecution of offending patients with debilitating illness is tough and medical marijuana being sanctioned under state law but not under federal law poses its own challenges.

Town Attorney Wright explained that the Town is not encouraging the opening of dispensaries but to regulate any that do open.

Bob Mueller stated he was interested in starting a dispensary. He discussed the security capabilities available. He would both cultivate and dispense medical marijuana.

Commissioner Mona asked if the marijuana sold would be taxed. Town Attorney Wright said not at this point but he believed the subject will be addressed in the next legislative session. Commissioner Mona thought the limited hours of operation were substantially more restrictive than pharmacies where narcotics are sold. Pharmacies have drive through service also and the Apothecary Shop is adjacent to a movie

theatre. Chairman Goddard explained that pharmacies have strict regulating agencies such as the DEA, much more restrictive than the zoning restrictions suggested.

Commissioner Loyd asked if there were studies comparing the cost and benefits of adopting these regulations and if County restrictions would supersede. Town Attorney Wright explained that County regulations would apply only outside the Town limits. The work by staff surrounding the regulations has already been done and cost/benefit at this point is a law enforcement issue. The Police Department will have issues either way, but feel it would be more cost effective to know where medical marijuana is being dispensed rather than in-home growers. He reiterated that these regulations allow dispensaries but doesn't guarantee them.

Commissioner Scheidt thanked the staff for their hard work. He said it was good to see we are trying to become proactive. Enforcement is easier with parameters already established coinciding with state law. He believed it a better idea to be established as a right of use rather than a CUP.

Chairman Goddard closed the public hearing.

Motion: Recommend to the Council approval of P10-008, an amendment to the Unified Development Code (UDC) by creating Section 15-15, "Medical Marijuana Uses" to create reasonable zoning regulations limiting registered nonprofit medical marijuana dispensaries as drafted by staff and attached to the staff report.
Moved by James Scheidt, seconded by Clark Jones.

Chairman Goddard asked for a voice vote.

Vote: Motion carried 6 - 1

Yes: James Scheidt, Russell Goddard, Joel Mona, Lori Meyers, Clark Jones, and Mark Waldrop.

No: Jeff Loyd.

D. SCHEDULED DISCUSSION/POSSIBLE ACTION

1. 2011 Meeting Schedule

Community Development Director Ray Erlandsen explained the schedule to be discussed included January of 2012. This was for discussion only and the vote would be at their next meeting. There were no changes to the calendar discussed.

E. REQUESTS TO STAFF FOR THE PLACEMENT OF ITEMS ON FUTURE PLANNING & ZONING COMMISSION AGENDAS

There were no future items presented. Mr. Erlandsen thanked the Commissioners for their dedicated services and wished them all a happy holiday and new year.

F. INFORMATION TO COMMISSION

There was no further information for the Commission.

ADJOURNMENT: Chairman Goddard adjourned the meeting at 3:54 p.m.

Russell Goddard

Russell Goddard, Chairman

2-14-11

Approved

Chris Floyd

Chris Floyd, Executive Assistant, *as*

prepared by Day Stidham