Payson
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MEMORANDUM

Date: May 16, 2013

To: Mayor and Council Members

From: Tim Wright, Town Attorney

Re: Ordinance 831/Resolution 2714 - Clean up of Town Code and UDC provisions related to trees

During early April, Town Staff was asked by a citizen why the Town does not (a) remove weeds and brush on vacant lots, (b) request payment from the owners of such lots, and (c) if payment was not made, place a lien on the lot and collect the amounts "in the same manner as other taxes against the property," a process set forth in Town Code Section 92.02(D). When reviewing this question, it was determined that Section 92.02 had not been updated in over 25 years and does not conform with what State Law currently allows. The Town is no longer permitted to "collect the amounts in the same manner as other taxes against the property." The current process allowed by State Law is set forth in Town Code Section 91.44 (see attached) and has been used on rare occasions.[1] But the outdated provisions in 92.02 were never removed.

During the investigation of this issue, Staff also located several other inconsistent and repetitive Code provisions related to trees. Currently Chapter 92 (Trees), Chapter 153 (Tree Preservation), and Sections 15-03-004 and 15-03-005 of the Unified Development Code all cover trees, their preservation, and when they are allowed to be removed.

Ordinance 831/Resolution 2714, in addition to bringing the Town Code into compliance with current State Law, seeks to reconcile the various provisions and remove repetitive provisions. As drafted, Ordinance 831/Resolution 2714 do not contain any substantive changes.

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[1] Although State Law and Section 91.44 allow a process traditionally know as 'lien and clean,' such process requires the Town to pay the money to clean the property, lien the property, and often not receive the money back until years later when the property is sold. With the Town's budget situation over the last several years, money has not been available for this process.

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