



**MINUTES OF THE REGULAR MEETING OF THE COMMON COUNCIL OF YOUNGTOWN, AZ  
THURSDAY, SEPTEMBER 18, 2014, TOWN CLUBHOUSE SQUARE, 12033 CLUBHOUSE SQUARE**

1. **Call to Order:** Mayor LeVault at 7:01 p.m.
2. **Roll Call:** Council present: Mayor Michael LeVault, Vice Mayor Jacob Duran, Councilmembers Margaret Chittenden, Dorena Mello, Shirley Gustafson, Judy Johnson and June Miller.  
Staff present: Town Manager Jeanne Blackman, Town Attorney's Kelly Schwab and Trish Stuhan, Community Development Coordinator Gregory Arrington, Economic Development Manager Gayle Cooper, Public Works Manager Marty Mosbrucker, Library Manager Heidi Speed and Town Clerk/Treasurer Diane Cordova.
3. **Pledge of Allegiance and Invocation:** Councilmember Miller led the Pledge of Allegiance and Vice Mayor Duran offered the Invocation.
4. **Communications:** Comments, Commendations and Presentations by Mayor, Council Members, staff or members of the public. The Council may not propose, discuss, deliberate or take any legal action on the information presented pursuant to A.R.S. 38-431.02.
  - A. **Communications from Council:**
    - Mayor LeVault
      - The Town Manager and I attended the Luke Air Force Base West Valley Partners meeting. Brig. General Scott Pleus spoke about the F-16 to the F-35 transition. The F-16 will be going to New Mexico and the F-35 is slowly coming in. The base is one hundred percent a pilot training facility.
    - Councilmember Mello
      - The Maricopa County Buyer Assistants Program is now available.
  - B. **Communications from Staff:**
    - Town Manager Blackman
      - As the Mayor stated, LAFD is strategically training pilots and plan to also train pilots from Norway and Italy.
      - I'm part of the honorary squadron program and attend a meeting at LAFB.
      - I want to thank staff, Town Clerk Cordova and Community Development Coordinator Arrington for all their efforts, hard work and long hours this last week.
    - Community Development Coordinator Arrington
      - The QuickTrip (QT), north of Town has completed its renovation. The kitchen is fully functional and running.
      - The business Rags Catering held a concert in Greer Park; about 100 individuals were in attendance. The park was left immaculate.
    - Library Manager Speed
      - The Library has a display of Robin Williams's videos.
      - I've been working on a project with an architect in Denmark, who is writing a book called "Urban Utopias of an Aging Society", which will focus on Youngtown, Sun City and Leisure World.
      - Friends of the Library meeting is Friday, 9-19-14 at 9:00 AM, and Book Club at 10:00 AM with topic of James Garner biography.
6. **Consent Agenda:**
  - A. **Approval of Minutes:** Work Session meeting minutes and the regular meeting minutes of September 4, 2014.  
  
Motion to approve Work Session meeting minutes and the regular meeting minutes of September 4, 2014 Councilmember Chittenden  
Second – Councilmember Mello.  
Motion approved unanimously.
7. **Business**
  - A. **Discussion and/or Action Re: Sun City Fire District (SCFD) Report.**  
Chief Thompson
    - I am reporting for the month of July, 2014. There were no fire incidents; 78 rescue & EMS incidents; 1 hazardous condition (no fire); 7 service calls; 4 good intent calls; and 5 false alarm & false calls for a total of 95 incident

responses. On the prevention inspection side, for the month of July, 2014, 2 assembly inspections; 1 residential and 14 mercantile/business inspection for a total of 17 preventive inspections.

- For the month of August, 2014, there were zero fires; 94 rescue & EMS incidents; 1 hazardous condition; 4 service calls; 5 good intent calls; 2 false alarm & false calls for a total of 106 incident responses. Preventive inspection we had 2 health care, detention, & correction inspection and 1 residential inspection for a total of 3 preventive inspections.
- As far as projects, the building known as Tequila Willys has been removed. The next stage will be funding for a fire station.
- Banner Boswell is hosting a Health Fair this Saturday, September 20, 2014 from 8:00 a.m. to 12:00 p.m.

**B. Discussion and/or Action Re: Maricopa County Sheriff's Office (MCSO) Report**

Captain VanAusdal

- Glad to report that crime is down and the trend shows a decline. Most of the violations, enforcement, have been on failing to stop and speeding. The same locations; 113<sup>th</sup> Avenue and the corner of Nof & Fooks.
- MCSO is proud to be Youngtown's Police Services.

Mayor LeVault

- This there alternative ways to increase visibility at both of those locations? These locations are high density areas with children; perhaps flashing red lights for greater awareness.

Councilmember Miller

- On the corner of Oregon and north of Nebraska Avenue is a stop sign that hardly everyone ever stops at; not even the school bus.

Captain VanAusdal

- Our patrol officers will be notified.

**F. Discussion and/or Action Re: Planning and Zoning Case #14-03 and Approval of Ordinance 14-07 retail sales of edible foods used to consume medical marijuana; Approval of Ordinance 14-08 retail sales of devices, equipment and product used to consume medical marijuana; and Approval of Ordinance 14-09 or Ordinance 14-10 hours of operation, all related to amending Town Code Title 17 Zoning, Chapter 17.40 C-2 Commercial District, Section 17.40.110 Medical marijuana cultivation, infusion or manufacturing facility regulations and medical marijuana dispensary regulations. The effect of the amendments will be to permit (1) retail sales of devices, equipment, products or materials (used to consume medical marijuana); (2) retail sales of food products containing medical marijuana; and/or (3) to increase the hours of operation for dispensaries.**

Mayor LeVault

- There are three parts to the discussion and/or action on the about this agenda item. The process has gone through a citizen's hearing as well as a hearing meeting with the planning and zoning Hearing Officer. We will first hear the staff report.

**1. Staff Report - Community Development Coordinator Arrington**

- A Town Zoning Code amendment initiated by Withey Morris, PLC applicant for AAA Medical Marijuana Dispensary, LLC dba Swell Pharmacy. This application involves a request for an amendment to Chapter 17.40.110 Medical Marijuana Cultivation, Infusion or Manufacturing Facility Regulations and Medical Marijuana Dispensary Regulations, , Section E Retail sales, to permit edible sales; permit sale of merchandise and are requesting extended hours of operation at 11200 W. Michigan Ave., Suite 5.
- The notice for a public hearing was given, and conducted on September 9, 2014, where citizens were given the opportunity to speak and also on September 16, 2014, another public hearing was conducted with the planning and zoning hearing officer.
- The hearing officer communicated to staff that due to the lack of regulations on the other high profile businesses in town, there might be a future challenge to the regulation of Sundays business hours.

**2. Applicant Presentation – Adam Baugh Attorney (PowerPoint attached)**

- I would like to state that the Applicant, and as well as myself, are very impressed with how the Council and staff took on the wiliness to hear us out and how very transparent the process has been.
- We would like to inform Council and staff on patient procedures: no one is allowed under 18 and must have a valid Arizona Medical Marijuana card, no weapons are permitted and customers are under video surveillance. A patient waits in a secured lobby that is locked and video monitored. They present the state-issued card through the secured window. New patients would also present a driver's license and complete some intake paperwork. An employee scans the patient's

medical card into the internal store system and the Arizona Department of Health database. This verifies the patient's card is active and what quantity of medical marijuana the patient is entitled to purchase for the 2-week period. If the patient's card is reported revoked, lost or stolen, expired etc. they are denied entry. After verification, patient is allowed into the dispensary to consult with a technician. Technicians work together with the patient to understand their concerns and identify a product to best address their needs. An employee weighs the medicine in front of the patient. A maximum of 2.5 ounces can be purchased in a two week period, although the average purchase is typically only a one eighth of an ounce because of cost. This is a very transparent process. Everything is monitored with cameras per state rules. The employee's wear gloves and use medical tongs to place the medicine in a child resistant container.

- A little background, November, 2010, voters approved the Arizona Medical Marijuana Act legalizing the use, sale and cultivation of medical marijuana. Municipalities had no clue what impact this would be on cities and towns. The League of Arizona Cities and Towns created a model ordinance which many municipalities adopted. Youngtown was wise and adopted medical marijuana zoning regulations in January of 2011. These regulations limit dispensary hours of operation 8:00 a.m. to 6:00 p.m., Monday through Saturday and prohibited retail sales of merchandise and edible medicine. Since then, many municipalities have come to understand medical marijuana and have modified their ordinances.
- We researched and have a jurisdictional survey that shows that the City of Buckeye is the only municipality that restricts operations of a Sunday. All others, Avondale, Goodyear, Peoria, and Surprise, allow weekend and retail sales. The City of Tolleson does not have a dispensary. 12 out of 13 jurisdictions permit Sunday sales. 9 out of 13 permit sales after 6 p.m. 13 out of 13 jurisdictions do not restrict edible sales and 11 out of 13 do not restrict retail sale of merchandise.
- As to edibles, the joke is that edibles are brownies and while that may be a fact, edibles are more than that. There are salad dressings, seasonings, teas etc. Many patients prefer edibles rather than smoke inhalants. For some, edibles are the only way to take the medication.
- Retail merchandise also is known as pipes and bongs. Medical marijuana can be dispensed in many forms including oils, lotions, tinctures, salad dressings, teas. We are like any other medical office or pharmacy that would like to sell products necessary for the prescribed medication. A one stop convenience; discreet service.
- At the citizens' hearing, we took into consideration a comment made and would like to make a minor addition to the ordinance text amendment limiting retail sales to a state approved, qualified patient cardholder.
- Patient access is what this is all about. We had first requested the hours of operation be 8:00 a.m. to 9:00 p.m. Monday through Saturday, however if council deems that 8:00 p.m. to be more appropriate, we agree. For Sunday hours of operation, we are requesting 12:00 to 5:00 p.m. Why are Sundays necessary? Pain is unpredictable. Patients need access to medicine at various times. There are no other commercial use that is prohibited on Sundays. Finally and in summary, there is no apparent or compelling reason to prohibit Sundays. The following uses are permitted on Sunday, Adult Use Theatres (noon to 1 am); Massage parlors (6 am to 9 pm); Tattoo parlors (noon to 1 am) Other businesses open on Sundays, QT, circle K, Dennys, Motel 6, Best Western, Speakeasy Cocktails, Youngtown Market, Town Tobacco. Open operations on a Sunday is an economic benefit to the town.
- Why does it matter? We have multiple purchases of \$15 to \$50 a week. Patients buy as needed. There is no co-pay, no medical insurance. All purchases are made in cash. Patients buy different strains and dosages depending upon the effects. Their bodies develop an immune to a certain strain and would then have to come in and purchase another strain. Not all medication is the same. Medical Marijuana is not the same; potency, effectiveness, taste, effects, are all considered in a purchase. Why? There are different plant species, different ways of curing and drying; there are mold and pesticides to consider. Swell Pharmacy stocks the strongest medication possible. That is why many come to our pharmacy. We provide the strongest medicine at a very affordable price. All dispensaries are different. Superior quality medication is not offered at other sites.
- Other dispensaries that are open on Sundays: Arizona Natural Selections located on Peoria & 91<sup>st</sup> Ave. 12pm-5pm. Arizona Cannabis Society located on Northern & El Mirage 10am-4pm. The Green House located on Union Hills & 101 10am -6pm. and Arizona Organix located on Glendale & 51<sup>st</sup> Ave. 10am-7pm.

Mayor LeVault

- I have watched this process very carefully, I attended both of the hearings and watched this process unfold. Regardless of how this Council ends up voting, I am very proud of this Council because the process utilized for this controversial issue, as policy makers, the seven of us should have 100% of the information needed to make an informative decision. I am confident that this council will come up with the proper decision for the proper reasons.

Councilmember Miller

- You have told us many times during the hearings that your product is superior to others and that people keep telling you that they keep coming back because of the quality of your product. If your product is that good, why are you worried about losing a customer if you are closed on Sunday? If it is that good, they will be come back. So what is your concern?

Adam Baugh, Attorney

- It not such a concern of returning as it is a concern for the patient getting the proper medication
- Medical marijuana is only expensive when it is regulated. To get a medical marijuana license you have to qualify, pay the \$5,000 fee; enter into a lottery to be considered; find a location, acquire a lease; install security and go through fingerprinting and training. Everything that is required to start up a business, however amplified because of the heavy regulations. It can be purchased cheaper out on the streets, however there is no regulation.
- The stronger strain only lasts a couple of hours. It is for immediate pain, not for an enduring cure.

Councilmember Mello

- As far as tax dollars, this is a pharmaceutical and it is not taxable, is that correct? I understand the equipment, devices as taxable retail sales.
- Why is it a cash sale only?
- The dispensary can accept a check for purchase correct?
- If medical marijuana is sold out on the streets, its brings in a higher dollar because of it higher strain. People do resell their medical marijuana.
- We do need to look at the other high profile businesses like the tattoo parlors.

Fred Kaughman Owner of Swells Pharmacy

- We are not considered a pharmaceutical and we do pay retail sales tax on all products sold. Per state requirement, each sale is recorded.
- We are working on a program where we would be able to utilize credit cards.
- If you have a concern of a patient purchasing from us and then reselling, it certainly happens as it happens on pharmaceutical sales, which is a much more a serve problem for all of us.

Chris Martin, Swells Pharmacy Manager

- We do pay 9.3% sales tax on all retail sales; 6.5% goes to the state and 3% goes to Youngtown.

Town Attorney Schwab

- It is not considered a non-traditional therefore it is taxable.

Councilmember Gustafson

- I know that for narcotics for pain, a urine test may be required to show that the person is using the medication. This is done before a refill is completed. If the medication does not show up, then no refill.
- I had to take my husband to the hospital several times and it has been on a Sunday. The doctors always give him a prescription and I have to get that prescription filled. If my pharmacy was not open on Sunday, we would have to wait until Monday. There are Walgreens, Walmarts, Fry's are all open on Sundays for medications.

Vice Mayor Duran

- If the other dispensaries are so close by, why are you so concerned that the people will not be able to get their medication?
- This is not a remedy for healing, correct?
- I have no problem with what you do, it's what you do, but you are questioning what we as council do. The decision is totally up to us. We are not a cookie cutter Council, we are here because we run the city and one thing I am very concerned about is that you as a company/business ran your business for a whole year without legal permission. For this Council not to do anything nor take action then actually you do not need this Council. Our Attorneys stated that you acknowledged the illegal operation of the business; it not okay for the simple reason that our prisons are filled with people that have committed crimes and have apologized just come out and do it again and serve prison for life. I cannot stop you from selling everything you are selling, but my opinion is my opinion.

Adam Baugh

- We do not know how the other dispensaries operate. We do not want our patients to go somewhere else; we want them to stay in Youngtown.
- No, it is not a cure.

- The moment that we aware that we had violated Town Code, we immediately came into compliance. I respect your decision and request your forgiveness. We are abiding to the rules and have presented our request and have respected the process.

**Councilmember Johnson**

- They come to us when they realized they were in the wrong. They are a business and it is obvious that they are here and we cannot get rid of them. If we want to get rid of them, why not get rid of all the other businesses.
- I understand that there is a need for medical marijuana.
- We currently do not regulate or prohibit the other businesses; we will need to look into that.
- I do not see a reason why it should not be opened on a Sunday. I appreciate the 8:00 p.m. close time and support the Noon to 5:00 p.m. on Sundays.

**Councilmember Chittenden**

- Through the whole process, I appreciate the attorney Adam Baugh, appreciate the General Manager Chris Martin.
- We, as staff, did not notice the violation. I appreciate that you came into compliance immediately.
- I did visit this morning Arizona Natural Selections on 91<sup>st</sup> and Peoria Avenue. I was very impressed, I did not get past the lobby. I did see that it is very controlled, just like the one here. The first thing I did observe was the security guard outside and the sign on the door prohibiting weapons, pets and no loitering.
- I appreciate the addition to the text amendment that will state only qualified card holders are able to purchase.
- You have listened to us since the work session; you have listened to staff; I am very appreciative of the planning and zoning process. We have to be open minded. It has been an educational process for all of us.
- The pet pharmacy is not open on Sundays. Town Tobacco is open on every day from 9:00 a.m. to 6:30 p.m. and Youngtown Market is open on Sundays 11:00 a.m. to 7:00 p.m.
- Many of us did not vote for the legalization of medical marijuana. We as a Council adopted a very conservative ordinance.
- I am in agreement with the hours of closing at 8:00 p.m. verses the 9:00 p.m. and I would go along with the Sunday Noon to 5:00 p.m.

**3. Zoning Hearing Officer Recommendations**

Community Development Coordinator Arrington read Hearing Officers recommendation:

- I will read the Hearing Officers Recommendation:
  1. Approval of a text amendment to the Town Ordinance in terms of retail sales of devices, equipment, products or materials and retail sales of edible foods used to consume medical marijuana.
  2. Approval of a recommendation from applicant for an additional text to the Town Ordinance 17.40.110 (E) FOOD PRODUCTS MAY BE SOLD AT A MEDICAL MARIJUANA DISPENSARY "To A State Qualified Patient(s)" and retail sales of devices, equipment, products, or material used to consume medical marijuana is MAY BE SOLD AT A MEDICAL MARIJUANA MEDICAL MARIJUANA DISPENSARY "To A State Qualified Patient(s)."
  3. Swell Pharmacy current hours of operation are Monday through Saturday 8:00 a.m. – 6:00 p.m. and closed on Sundays. Approval of the extension of hours of operation as: Monday through Saturday Hours: 8:00 a.m. to 8:00 p.m. Sunday Hours 10:00 a.m. to 3:00 p.m.

**4. Open Public Hearing – Mayor LeVault opened the public hearing.**

**Ash Vasquez, A to Z Security**

- We are a security agency for most dispensaries across the Phoenix area. We are currently contracted with nine dispensaries and cultivation sites. We now are contracted with Swell Pharmacy for security services.
- We have a vast knowledge of dispensaries. We have minimal incidents and we work with the local police departments. We go through expensive training, community policing action with the City of Peoria Police Department. We are trained to monitor the parking lots at dispensaries. We establish relationships with citizens and work hand in hand with the local jurisdictions.

**Councilmember Miller**

- Do you normally carry a weapon?

**Ash Vasquez, A to Z Security**

- No, we do not carry a weapon while on duty at a dispensary. We carry pepper spray, batons, and hand cuffs. We are also trained in defensive tactics. The major training is a de-escalation technique, which is our main focus.

**Councilmember Chittenden**

- What type of card do you have to have to get past the window?

**Ash Vasquez, A to Z Security**

- We actually have to have the same certification card and credentials that employees of a dispensary are required to have. Our guards have to go through two background checks; one to become a security guard with the State of Arizona; and one with the Department of Health Services.

**Mercy Vickers**

- My husband and I drove by the dispensary and noticed a bit of a hole in the fence between the dispensary and the other businesses. How well lit is your parking lot? We drove by and did not see any lights at all. My concern is for the patients that arrive and are leaving after 8:00 p.m. and also for your staff that leaves in the evening.

**Adam Baugh Attorney Swell Pharmacy**

- We are neither the property owner nor the landowner. The lighting I believe is at Town standards. Swell Pharmacy is contracting with A to Z Security to monitor the parking lot.

**5. Close Public Hearing – Mayor LeVault closed the public hearing.**

**Mayor LeVault**

- Before we take action on the above agenda items, I would like to make a few comments. I would like to caution Council that we are not here tonight to determine if medical marijuana should be legalized, that question was settled by the people of Arizona by a ballot initiative several years ago. We are here to act in our capacity as policy makers to look at modifying our ordinance/code to allow for some extension and/or additional text amendments. Secondly, through the process, what has been properly stated is that medical marijuana is to be utilized strictly for pain and in some cases to sharpen the appetite for cancer patients. No one has ever stated that medical marijuana is ever meant to be a cure. Medical marijuana is a controlled substance and is subjected to the same abuses as OxyContin for example, a prescription item, and is one of the most addictive substance people can get. The reality is that there abuses that will occur. The State of Colorado just recently legalized recreational marijuana, regulated and taxed by the State. The data is now rolling in on how the law is performing and what is being found is that because to the regulatory overlay, actual tax revenue that is coming in is far shorter than what was projected, about one-third short
- We will take the agenda items for action in the order they are presented on the agenda as one, two, and three.  
**Item 1.** Approval of Ordinance 14-07 retail sales of edible foods used to consume medical marijuana.
  - As per the applicant they have suggested a modification to the text amendment to add, *“To a State Qualified Patient(s)”*

**Motion to approve Ordinance 14-07 retail sales of edible foods used to consume medical marijuana and to add text amendment *“To a State Qualified Patient(s)”* – Councilmember Mello**

**Second – Vice Mayor Duran**

**Motion passes unanimously on a roll call vote 7 – 0**

**Mayor LeVault**

**Item 2.** Approval of Ordinance 14-08 retail sales of devices, equipment and product used to consume medical marijuana.

- As per the applicant they have suggested a modification to the text amendment to add, *“To a State Qualified Patient(s)”*

**Motion to approve Ordinance 14-08 retail sales of devices, equipment and product used to consume medical marijuana and to add text amendment *“To a State Qualified Patient(s)”* – Councilmember Chittenden.**

**Second – Councilmember Johnson**

**Motion passes unanimously on a roll call vote 7 – 0**

**Mayor LeVault**

**Item 3.** Ordinance 14-10 modifying the hours of operation. Then again the applicant volunteered to modify what they had originally proposed. Applicant hours being requested is Monday through Saturday 8:00 a.m. to 6:00 p.m. and on Sunday, Noon to 5:00 p.m.

**Town Attorney Schwab**

- There are two versions of the ordinance in Council’s packet. Depending on the outcome, we will revise the ordinance to reflect the decision.

Mayor LeVault

- The hours then are Monday through Saturday 8:00 a.m. to 8:00 p.m. and Noon to 5:00 p.m. on Sundays.

Motion on the table to approve Ordinance 14-10 hours of operation Monday through Saturday 8:00 a.m. to 8:00 p.m. modifying Sundays hours noon to 3:00 p.m. – Councilmember Mello

No second motion made; motion not carried forward.

Motion to approve Ordinance 14-10 hours of operation Monday through Saturday 8:00 a.m. to 8:00 p.m. and Sunday Noon to 5:00 p.m. – Councilmember Johnson

Second – Councilmember Chittenden

Discussion:

Councilmember Chittenden

- It had been previously talked about throughout the process about Sunday hours being 12:00 p.m. to 3:00 p.m. Through the process I learned that Sunday hours are more reasonable at 12:00 p.m. to 5:00 p.m. The Applicant did mention that they would be open 9:00 a.m. to 8:00 p.m. If we approve on 8:00 a.m. to 8:00 p.m. that doesn't mean the dispensary would open at 8:00 a.m. and that opening at 9:00 a.m. was a possibility correct?
- Would the Applicant agree to 8:00 a.m. to 8:00 p.m. or can it be stated 9:00 a.m. to 8:00 p.m.?

Adam Baugh Attorney Swell Pharmacy

- We see no need to open any earlier than 9:00 a.m.

Mayor LeVault

- Current motion on the table: motion is to approve Ordinance 14-10 hours of operation Monday through Saturday 8:00 a.m. to 8:00 p.m. and on Sunday Noon to 5:00 p.m. – Councilmember Johnson  
Second – Councilmember Chittenden

Comment:

Councilmember Miller

- I thought that we were going to separate this because I certainly approve of one but not the other. How do we vote on these hours separately?

Motion on table amended - Ordinance 14-10 hours of operation Monday through Saturday 8:00 a.m. to 8:00 p.m. amended with no hours on Sunday -Councilmember Miller

Mayor LeVault

- Madam Attorney, can we vote on this motion and second; or how do we handle this?

Town Attorney Schwab

- From a parliamentary procedure we now have a motion on the table to amend. If it is not withdrawn we will need a second on the table to go forward with the amendment.

Motion second by Councilmember Mello

Mayor LeVault

- Councilmember Miller what is your motion, what is it that you want amended?

Councilmember Miller

- I am moving to amend to prohibit hours of operation on a Sunday.

Mayor LeVault

- Your motion is to have Monday through Saturday 8:00 a.m. to 8:00 p.m. and considering a separate motion for the Sunday hours?
- On the table right now is a motion actually an amendment to the motion proposing that the hours of operation Monday through Saturday be 8:00 a.m. to 8:00 p.m. and to have a separate vote for the Sunday hours; is there a second?

Councilmember Mello

- I second the motion.

MayorLeVault

- We have an amended motion with a second on the table, can we have a vote.

Town Attorney Schwab

- First vote on the amended motion, no Sunday hours.

Mayor LeVault

- What we are voting on now is an amended motion and a second for Monday through Saturday 8:00 a.m. to 8:00 p.m.

Town Attorney Schwab

- If I can make a suggestion, if all the makers of motions and seconds are willing to withdraw them, it will make it easier to have two separate vote motions; a motion for the Monday through Saturday hours and another motion for Sunday hours.
- Everyone needs to withdrawal their motions and their amended motions.

Councilmember Chittenden

- I withdraw my motion.

We have a motion on the table to approve ordinance 14-10 hours of operation for Monday through Saturday 8:00 a.m. to 8:00 p.m. – Councilmember Miller

Second – Councilmember Mello

Mayor LeVault

- Now we will have a roll call vote.

Town Clerk Cordova

- Motion has been made to approve ordinance 14-10 hours of operation for Monday through Saturday 8:00 a.m. to 8:00 p.m. - Councilmember Miller  
Second – Councilmember Mello  
Motion passes unanimously on a roll call vote 7 – 0

Mayor LeVault

- Now let us address a motion for the Sunday hours.

Motion on the table to approve ordinance 14-10 hours of operation for Sunday's 12:00 p.m. – 5:00 p.m. - Councilmember Johnson

Second Councilmember Chittenden

Motion did not pass on a roll call vote: 3 yeas – 3 no – 1 abstain. Motion fails.

Councilmember Johnson – Yes	Councilmember Mello - No
Councilmember Miller – No	Councilmember Gustafson - Yes
Vice Mayor Duran – No	Mayor LeVault - Abstain
Councilmember Chittenden - Yes	

Discussion:

Councilmember Chittenden

- How about we lessen the hours on a Sunday?

Mayor LeVault

- Wait a minute what if someone makes a motion for lesser hours on Sunday?

Town attorney Schwab

- That is allowed.

Motion on the table to approve Ordinance 14-10 hours of operation for Sundays 10:00 a.m. – 3:00 p.m. – Councilmember Johnson

Second councilmember Gustafson

Discussion:

Councilmember Miller

- It's still the same 5 hours on a Sunday, there is no difference.

Councilmember Gustafson

- I don't see any difference from someone going to this medical marijuana pharmacy than someone going out to dinner with friends or going to the grocery store and buying on a Sunday. I've been taught that there is no buying or selling on a Sunday. I've always followed that. Unless if it is a necessity like I had to get my husband prescription. For some people, this is pain; this is a need for them, if they can't get their medication during the week; I know for myself, I've run out of my diabetic medication and would have to go on a Sunday to have it filled.

Councilmember Chittenden

- While speaking with a friend of mine, she stated that not everyone goes to church. Not everyone believes like I believe and doesn't feel like I feel. We all have our convictions. I can go to Fry's Food Store and purchase liquor on a Sunday if I wanted to. That's my choice. I'm not making their decisions and they're not making decisions for me. We can't judge everyone else to what they need or don't need. That is why I came around on the Sunday hours. I prefer after 12:00 p.m. which is after church, however that's just me. We have to be more board minded.

Councilmember Johnson

- I am hearing many reasons why Sunday hours should be open, however there are no reason why they shouldn't be open on a Sunday.

Councilmember Mello

- We are here to vote, can we just vote, it's not up for discussion, it's up for a vote.

Mayor LeVault

- There is a motion and a second on the table.

Councilmember Johnson

- Perhaps I need to withdraw my motion and amend it to lesser hours? Instead of 5 hours let's give them 4 hours.

Councilmember Mello

- You made the motion Councilmember Johnson

Mayor LeVault

- So are you withdrawing your motion?

Councilmember Johnson

- It sounds like Councilmember Miller is objecting to the 5 hours.

Councilmember Miller

- I am objecting to any hours.

Town Clerk

- Motion has been placed on the table. We are voting for Sunday hours 10:00 a.m. to 3:00 p.m.

Motion did not pass on a roll call vote: 3 yeas – 3 no – 1 abstain. Motion fails.

Vice Mayor Duran – No	Councilmember Johnson - Yes
Councilmember Chittenden – Yes	Councilmember Miller - No
Councilmember Mello – No	Mayor LeVault - Abstain
Councilmember Gustafson - Yes	

C. Discussion and/or Action Re: Approval of Ordinance 14-11 amending Town Code Title 12 Streets, Sidewalks and Public Places; Section 12.04.030 Location and relocation of facilities in public rights-of-way, related to pavement restoration.

The effect of the amendment will be to reduce the total feet of restoration required to be paved by mill and overlay/inlay after an excavation.

Community Development Coordinator Arrington

- This issue was brought before Council as a work session on September 4, 2014. Staff is recommending a modification to the existing ordinance. The current code reads excavations on arterial streets at 50 feet for a total of 100 feet and collector streets at 25 feet for a total of 50 feet. Staff is recommending a minimum of two (2) feet both directions from the areas of the excavation for arterial streets and one (1) foot for collector streets.

Motion to approval Ordinance 14-11 amending Town Code Title 12 Streets, Sidewalks and Public Places; Section 12.04.030 Location and relocation of facilities in public rights-of-way, related to pavement restoration. The effect of the amendment will be to reduce the total feet of restoration required to be paved by mill and overlay/inlay after an excavation. - Councilmember Miller

Second - Vice Mayor Duran

Motion passed unanimously on a voice call.

D. Discussion and/or Action Re: Planning and Zoning Case # 14-04 and Approval of Ordinance 14-05 amending Town Code Title 17 Zoning Chapter 17.04 General Provisions, Administration and Enforcement, by amending Section 17.04.030 Definitions, to add definitions for non- traditional business, pawn shop, stand-alone smoking lounge, tattoo and/or piercing establishment, secondhand store, thrift store, and used automobile dealership, AND amending Chapter 17.36 C-1 Commercial

District, by amending Section 17.36.020 Use Regulations, to adopt separation requirements between non-traditional businesses to prevent the concentration of similar commercial/retail uses in the C-1 Commercial District.

Staff Report:

Community Development Coordinator Arrington

- The item was also brought before Council at a work session for discussion. The planning and zoning hearings were held on September 9 and September 16, 2014. We did not receive any negative comments. Staff is recommending a 2,500 linear feet separation.

Zoning Hearing Officer Recommendations:

Community Development Coordinator Arrington

- The hearing officer has recommended approval as submitted.

Councilmember Chittenden

- I did go down to the used car lot located by the Circle K; the doors were lock and spoke with the tenant next door and they said that they are in the process of moving because of not having enough parking spaces for their vehicles.

Community Development Coordinator Arrington

- When the business first located in, their challenges were the parking spaces. Per code the allowable is three to four parking space per tenant at that location. This type of business utilizes more spaces.
- I appreciate the staff's observation on these concentrated businesses coming into town. It shows that our staff is very aware of what is going on in our Town.

Open Public Hearing

Mayor LeVault opened the public hearing.

There were no comments.

Closed Public Hearing

Mayor LeVault closed the public hearing.

Motion to approval Ordinance 14-05 amending Town Code Title 17 Zoning Chapter 17.04 General Provisions, Administration and Enforcement, by amending Section 17.04.030 Definitions, to add definitions for non- traditional business, pawn shop, stand-alone smoking lounge, tattoo and/or piercing establishment, secondhand store, thrift store, and used automobile dealership, AND amending Chapter 17.36 C-1 Commercial District, by amending Section 17.36.020 Use Regulations, to adopt separation requirements between non-traditional businesses to prevent the concentration of similar commercial/retail uses in the C-1 Commercial District. – Councilmember Chittenden

Second – Councilmember Mello

Motion passed unanimously on a voice call.

E. Discussion and/or Action Re: Planning and Zoning #14-05 Approval of Ordinance14-06 amending Town Code Title 17 Zoning Chapter 17.64 Sign Regulations

1. Section 17.64.030(F) General Regulations, governing the securing of A-frame temporary signs to structures.
2. Section 17.64.070(C)(1)(b) Specific Sign Regulations, governing promotional sales.

Staff Report:

Community Development Coordinator Arrington

- This agenda item was also brought before council at a work session. Planning and zoning hearings were held September 9 and the 16, 2014. We did not receive any negative comments. This ordinance addresses the attachment of A-frames and promotional signage.

Councilmember Mello

- Does our ordinance currently state that A-frames cannot be attached?
- Our sign ordinance was developed with great expense by the sign industry.

Community Development Coordinator Arrington

- Yes it does.
- Staff will be bring more amendments to the sign code throughout the year.

Zoning Hearing Office Recommendations:

Community Development Coordinator Arrington

- Hearing office has recommended the amendments as presented.

Councilmember Miller

- Can A-frames be attached to a light pole? Can they place a stake in the ground? And what if there is nothing around to attach an A-frame?

Community Development Coordinator Arrington

- No they cannot attach to a light pole.
- Attachment to some type of apparatus is fine.

Councilmember Mello

- Clarification, A-frames cannot be on the right-of-ways?

Community Development Coordinator Arrington

- That is correct, cannot be on the right-of-ways.

Councilmember Chittenden

- Must be taken down after business hours?

Community Development Coordinator Arrington

- That is correct, must be remove after business hours.

Staff Report :

Community Development Coordinator Arrington

- Staff is recommending modification to language allowing for temporary window sign(s) for promotional sales of goods and products with no time limits and no permit fee required.

Open Public Hearing

Mayor LeVault opened the public hearing.

There were no comments.

Closed Public Hearing

Mayor LeVault closed the public hearing.

Motion to approve Ordinance 14-06 amending Town Code Title 17 Zoning Chapter 17.64 Sign Regulations

1. Section 17.64.030(F) General Regulations, governing the securing of A-frame temporary signs to structures.
2. Section 17.64.070(C)(1)(b) Specific Sign Regulations, governing promotional sales – Councilmember Mello

Second - Councilmember Miller

Motion passes unanimously on a voice call

G. Executive Session pursuant to A.R.S. §§ 38-431.03(A)(3) and (A)(4) for discussion or consultation with the Town Attorney for legal advice and in order to consider its position regarding the adoption of a development agreement for economic development incentives for Riverview Place located at the vacant land surrounding the QuikTrip gas station at the northwest corner of Olive Avenue and Agua Fria Ranch Parkway that is the subject of negotiations.

No executive session taken.

H. Discussion and/or Action Re: Approval of Resolution 14-18 related to the adoption of a development agreement for Riverview Place located at the vacant land surrounding the QuikTrip gas station at the northwest corner of Olive Avenue and Agua Fria Ranch Parkway. The effect of the development agreement will be to waive certain permit and inspection fees to be applied to the costs of landscaping the property.

Economic Development Manager Cooper

- This development is pretty critical to our community. We have been blessed with a vacant lot for quite some time. Our potential developers are anxious to get it developed. What they are planning to do is a mini version of what we plan to do when we plan our commerce park. They are planning a certain amount of retail involved with some warehousing and manufacturing along with some business offices. It will be a true mixed-used concept. This is allowable because it is zoned commercial development. Arizona Developers LLC owners of the property are present tonight.

Dick Meese, Arizona Developers LLC

- I am a member of Arizona Developers LLC. We own about 6.5 acres down by Olive Avenue where the Quiktrip is located. We purchase the property seven years ago. We appreciate the staff and Council for assisting on coming up with some uses for the development of this property. We have come across a small retail component which I do

believe will be an improvement to what we have discussed before. We appreciate that there is a possibility of passing an incentive package, waiving permit fee and inspection fees. Any incentive that we can get from the Town that will be passed down to a user as assistance becomes a sales tool to help get the property developed.

Vice Mayor Duran

- What is the development that you are speaking about?

Dick Meese, Developer

- We have an area next to Quicktrip on the westside, one acre pad, anticipating a fast food franchise. The contract is out to be signed.

Mayor LeVault

- Economic development tools for the State of Arizona are inadequate compared to other states. Even though the economy appears to be improving somewhat, we are a long way from being fully recovered from the recession. There isn't much happening out there without some type of incentive from a local jurisdiction.

Town Attorney Schwab

- We placed a call for executive session on the agenda so if there is need for legal advice and discussion of the agreement, you may do both. We have prepared a draft development agreement. A couple of things need to be added: 1. On page 2 paragraph 1.1.3 a date of completion and 2. landscaping requirements have not been fully discussed.
- The developer has not reviewed the draft agreement.

Councilmember Mello

- What is the recommended total fee that the developers are asking to be waived?

Community Development Coordinator Arrington

- The Development Agreement provides for a waiver of fees in the amount of \$24,052.05 which will be applied to the costs of landscaping as set forth below: Plan Check Fees \$9,475.00; Building Permit Fees \$14,577.00 for a total of \$24,052.05

Mayor LeVault

- Need a motion in favor of the incentives of \$24,052.05

Motion to approve the incentives to waive fees in the total amount of \$24,052.05 – Councilmember Mello

Second – Councilmember Johnson

Motion passes unanimously on a voice call

8. Call for Executive Session  
No call was made.

9. Future Agenda & Meetings:

A. There may be discussion of whether to place an item on a future agenda and the date, but not the merits of the item.

Councilmember Mello

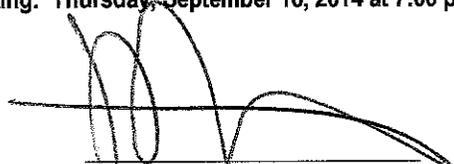
- I would like to bring back for review, amending of Town Code pertaining to the regulation of hours of operation for non-traditional businesses including massage establishments, tattoo parlors and sexual oriented business.

B. Announcement of next Regular Council Meeting: Thursday, September 18, 2014 at 7:00 p.m.

Motion to adjourn: Vice Mayor Duran

Second – Councilmember Gustafson

Meeting Adjourned 9:29 p.m.



Michael LeVault, Mayor

Attest:



Diane Cordova, Town Clerk

Minutes approved at October 2, 2014 regular meeting.