



MINUTES OF REGULAR MEETING OF THE COMMON COUNCIL OF YOUNGTOWN, AZ.

THURSDAY, December 16, 2010, TOWN CLUBHOUSE, 12033 CLUBHOUSE SQUARE

1. **Call to Order:** Mayor Michael LeVault called the meeting to order at 7:03 p.m.
2. **Roll Call:** Council present: Mayor Michael LeVault, Vice Mayor Jacob Duran, Councilmembers Margaret Chittenden, Dorena Mello, Shirley Oglesby, Susan MacKay and Judy Johnson. Staff present Town Manager Lloyce Robinson, Town Attorney Michelle Swann, Police Chief Terry McDonald, Public Works Manager Mark Hannah and Deputy Town Clerk Diane Cordova.
3. **Pledge of Allegiance and Invocation:** Pledge and Invocation led by Vice Mayor Duran
4. **Communications:**
 - A. Communications from Council
Mayor LeVault
 - Ms. Lucille Retherford passed away December 12, 2010. She was born in 1922. We will all miss her. She embodied the definition of public service. She was so involved in this town. She served on the Youngtown Council for many years. She was the founder of the Historical Society and member of the Youngtown Community Fund.Councilmember Oglesby
 - I had hoped to retire from my council seat, however since no one else is running for my seat, I've decided to run one more time.Councilmember Chittenden
 - I want to say congratulations to staff for an excellent evening with the event Christmas in the Park. I really don't know where all the kids came from. The whole park was full. I appreciate everyone's help. I think it went over great.
 - We will all miss Lucille. She was also my mentor. She was the reason I'm here.
 - There is a blood drive this Saturday at Compass Church.Councilmember Mello
 - Reading several articles in the Arizona Business Journal, one that I found interesting stated that the only businesses that have to be non-profit are the dispensaries. The growers do not have to be non-profit. There are in fact people making money off of this bill. Attorney Michelle Swann perhaps you can clarify this because everyone that is associated with this is under the impression that it has to be non-profit. The article was very clear, in fact one of the founders of this bill has cards charging \$199.00, they are for profit. Another article was about Arizona American Water. Due to the Anthem situation, they are suggesting to disburse a rate increase over everyone. Sun City has taken up arms; I think we should think about joining arms with them. There is some discussion of whether or not Arizona American Water incurred construction costs and that they are trying to recoup the infrastructure costs. The third article I want to share with everyone because I was quite surprised to find out the number one employer in Arizona; the State of Arizona, not county, not the city. Wal-Mart is number two.
 - At the CDAC meetings there was a huge introduction on Human Resources. We also listened for almost two hours and a half about the homeless problem. The ground work that is being laid regarding the homeless problem is that they (CDAC) are hoping that the municipalities that make up the consortium will walk away from their grants and allow grant writing go to non-profits so that then they can deal with the homeless situation. My concern regarding this is the Phase II of our fire flow project grant is extremely important. We have to put faces to that, because the areas that will be impacted are the areas in most dire need; it's our people with the highest risk, our assistance living facilities with elderly. If a fire was to break out they would not be able to get out, so we need to be prepared. The last two CDAC meetings have discussed having the consortium give up their grants to non-profits. We need to give them real people and how it will impact them here in our town and not just numbers. We have to be able to present to them that this is not infrastructure, this is about saving lives.
 - B. Communications from Staff
Town Manager's Report
 - Lucille Retherford was my mentor. We have information regarding her services on the back table.
 - Leadership West is an organization that I have been involved in. It's been a great government networking ability for the town. On Government Day, December 2, 2010, I was the chairperson for it. I've passed to Council some pictures; one is the view from the Governor's Conference Room on the eight floor of the executive tower (at the State Capitol).
 - The franchise agreements with A.P.S (Arizona Public Service) and Southwest Gas for another 25 year contract will be on the ballot March 8th, 2011.

- We are gaining a little bit more on revenue. I will have the November Financial Report to Council.
- I've given a draft schedule of upcoming council meetings to the Mayor. The budget process is the only item that needs to be placed on this schedule.
- I was approached by Pastor Joe Oswald, Compass Bible Church; their church would like to rent the clubhouse for Sunday mornings for an hour to two hours and also for Wednesday evenings. Pastor Joe and his youth pastors are partnering with the town and have been doing a lot of work with a youth program called Red Zone at Uribe Park. The problem is that in 2007 an ordinance was passed not allowing the clubhouse to be rented out, along with no Sunday use. I am seeking council's input and perhaps place this issue on a future council agenda.
- We have three council seats up for election, two candidate petitions have been turned in, which are current Vice Mayor Duran and Councilmember Mello. As of today, we have one write in candidate, Councilmember Oglesby. The deadline for a write-in candidate is Jan. 27, 2011 at 5:00 p.m.

Chief McDonald

- The police department doesn't have much to report. We have been finishing up several investigations. We have been working diligently throughout the holiday answering routine calls. Tonight, some of you might have been impacted on a traffic accident on Olive. A vehicle traveling east bound crossed the median onto west bound traffic. The driver of the east bound vehicle was air lifted out.

Manager Hannah

- We were successful on obtaining Phase II grant for the environmental investigation on Wisconsin Avenue property, where Bob RV's business is located; to commence about March to mid-April 2011. The Phase I investigation on 114th Drive was given a recommendation of not needing to go into a Phase II investigation.
- According to ADOT (Arizona Department of Transportation) 107th Avenue and Grand should be opening up this Saturday.

Fire Department Report

Ken Rice, Sun City Fire Marshall

- The November incident response summary report for Youngtown; One building fire, we had 65 rescue and emergency incidents, 10 service calls, three good intent calls, four false alarm calls, a total of 83 incidents to report for the month of November, totally 815 for the year. We had 21 business inspections with only one re-inspection. Councilmember Chittenden had asked me to explain the abbreviations on the report; CVA is typically a stroke call; ALOC is what we call, After Level of Consciousness, where folks are not making any kind of sense; the 901-H is 901 Henry a dead body call.

5. Consent

- A. **Approval of Minutes:** Minutes of December 2, 2010 Regular Meeting.
 Motion to approve with an amendment – Councilmember Oglesby
 Second – Vice Mayor Duran
 Motion passed unanimously on a voice vote.

6. Business

- A. **Discussion and/or Action Re:** Update from Nick Surak, Englewood Development Company, Inc., on Aurora Village (Senior, Affordable Housing Project) (ROBINSON)
 Robinson, Town Manager

- In your council books is information from Mr. Surak, Englewood Development and pictures of the Town of Guadalupe facilities. I wanted to show Council the type of facility that can come to Youngtown. Mr. Surak is here to let you know about the change of direction.

Surak, Englewood Development

- The last time I was here, we had proposed building a 65-unit affordable senior community on vacant land located on N. 113th Avenue. That site is the parking lot used by Sun View Assisted Living facility. The council had endorsed that location. Arizona was able to fund projects that required priority to Indian Tribes, non-profits, and other rural projects. Unfortunately Arizona has run out of funds. They did like our project and have encouraged us to resubmit this upcoming year. However, this time we are proposing, instead of vacant land, using a site next to it that already has a church building with commercial offices. The reason for this is Arizona Department of Housing came out with housing projects that are evaluated by the Qualified Allocation Plan (QAP). The QAP assigns a point values to different project characteristics in order to incentivize developers to pursue specific types of projects or locations. Last year and previous years, senior projects had a strong advantage over family projects. This year they have come out with a new QAP which eliminates senior property projects and now in favor of family projects and also interested in funding foreclosed property projects. The reason I am here is because I wanted to update the council of our efforts, and we do want to change sites and enlist the council's input. We would need your support with a letter sent in with our application.

Mayor LeVault

- So the focus is changing from low income seniors to low income family housing?
- Due to the loss of the advantage of senior housing, do you believe you still can get funding?
- What about the original property?

Surak, Englewood Development

- That is what the Arizona Department of Housing is advising, however, we want to do low income seniors housing. We are not proposing to change the site to family housing.
- Yes, the fact that the new site involves redevelopment of a foreclosed property, the points that they award for that makes up the difference in what was lost.
- Only the site has changed. We will make sure that parking will not be an issue. We are talking about 1.86 acres.
- The original site is available, but because it's not a foreclosed property, not a redevelopment project, we wouldn't get the points needed for funding a senior housing development.
- If we are unable to get council's support for the new site, even though we are interested in developing affordable senior housing, we would not have another site in time to meet the deadline; it would then be another year.
- In some point of time the Arizona Department of Housing might change the Qualified Allocation Plan (QAP) again and regain those incentives for seniors, but, as I mentioned whenever they make such a dramatic departure from what they previously were going after, that does create a serious change. They have a new Director of Housing, who is drying up this well and putting a stamp on this program. It's unlikely that they are going to change their minds.
- We would like to come back to a January council meeting, preferably the earliest one.

Councilmember Johnson

- So the site has changed? The church site and the offices there would all be taken down and replaced? What about parking? How many acres is that?

Surak, Englewood Development

- It would depend on who holds the contract at the time, Englewood Development or Vice Mayor Duran.

Vice Mayor Duran

- I met with Mr. Surak, I told him that I am still trying to make the effort to get the money to recoup that place back to New Joy Ministries. The church lost on that property, actually three and half million dollars in appraisals. Just in that building alone we had \$800,000 in remodeling costs. The documents have been signed. I am awaiting the release of funds to purchase back that property. I would love to bring back the school to Youngtown. I've been here 20 years and it is not an easy thing.

Councilmember Chittenden

- I am in favor of a senior housing development. We would like to have the school back. I agree with Vice Mayor Duran, he did all this remodeling; it would be a shame to tear it all down. If the Vice Mayor Duran did get back his property back from foreclosure, Englewood Development wouldn't be able to go on with it previous proposal even if you build for seniors?

Councilmember MacKay

- What kind of timeframe are we looking at? What if Vice Mayor Duran was able to secure funds and council has given the approval for the development, what happens then?

Swann, Town Attorney

- This is an update not an action to be discussed. Comments can be made, however, I am concerned about comments being made that sound that people have made a decision.

Discussion and/or Action Re: Planning & Zoning Case #10-05 and Approval of Ordinance 10-09, Amending The Code Of Youngtown, Arizona, Title 17 Zoning, By Amending Chapter 17.60 Parking And Loading, By Amending Section 17.60.010 Parking In Rural District, Section 17.60.020 Parking In R-3 District, 17.60.030 Parking In R-2 District, Section 17.60.030 Parking In R-3 District, And Section 17.60.040 Parking In R-1 District All Related To Prohibiting Parking Of Commercial Vehicles Having A Gross Vehicle Weight Rating In Excess Of Ten Thousand Pounds Or Exceeding A One-Ton Chassis Rating In Residential Zoning Districts; Providing For Repeal Of Conflicting Ordinances; Providing For Severability; And Providing For Penalties.
(ISAACS/McDONALD)

Robinson, Town Manager

- Lora Isaacs, Code Coordinator, who is the staff person on this subject, is out ill. This is the third round and not too sure how many public hearing we've held. This is the issue of commercial parking in residential areas. References to Title 17 are in your council packets also Title 10 which is involved as well. Title 17 because it has to do with property rights. We've held many Citizen Review and Planning and Zoning Hearings and gone through many drafts of this ordinance through the Attorney. Planning and Zoning Hearing Officer has sought input from the public.

Chief McDonald

- I have reviewed the work that Lora Isaacs has done on this along with the Town Attorney. If the council moves forward with this, we would be in good shape. It goes specifically to commercial vehicles. It gives us tangible items such as vehicle gross weight as well as the one ton package. This is criteria that would be necessary for us to issue a citation. This is a start to bring in conformity and control to what type of commercial vehicle can park in a residential area which is the intent here. This is something that is pretty consistent throughout the Valley.
- The Title 28 Statute has an accurate definition of a commercial vehicle. In regards to uses, I don't think we can totally legislate what a person is doing with a vehicle. If we run into something unique we will have to brainstorm it but if it becomes a bigger matter, certainly, we would have to bring it back to council.
- We are talking about parking on the street and on the driveways.

Mayor LeVault

- There was some initial heartburn with some residents; I think we have addressed it with the insertion of the word "commercial" in front of the word "vehicle." This is not a back door attempt to get rid of RV's recreational vehicle in town.
- Our Hearing Officer, Ray Jacob, is recommending approval.

Councilmember MacKay

- I want to make sure we are talking about parking on private property.
- I have a question on the P & Z minutes where it is stated needing a definition for the word "commercial" in the ordinance. I am not seeing that in the ordinance, a definition.
- I want to ask if my husband truck would be restricted. If the ordinance read as "or", which truck would be allow?

Mayor LeVault

- It's a vehicle that is licensed as a commercial vehicle. The definition is a standardized definition that all jurisdictions use.
- We are talking about the GVW and the commercial ton chassis both together have to exceed the restricted weight.
- I thought we had specifically talked about how it was going to be weights combined, commercial vehicle "and" exceeding gross vehicle weight.
- Who gave that instruction? The Hearing that was conducted, was the language "and" or was it "or?" This is a pretty crucial difference. It's like the difference between the words shall and may. Every agenda item that we are dealing with here surrounding this issue has the same language, right? If we leave the word "or" instead of "and" this in fact at some point down the road could be interpreted to be implied to recreational vehicles. Can we change the wording without going through the whole process again?
- It is clear to me that we are not going to reach a comfort level to vote on this agenda item. This is the third time we have gone through this. We need to go through a work session and come out 100% clear on this. This has gotten ridiculous.
- It's more than the issue of the word "or" and "and"; apparently it is clear to me that some councilmembers don't know the distinction between the several items on the agenda.

Swann, Town Attorney

- The word "commercial" is not about a vehicle used for neither personal use nor recreational use.
- There is no definition that I am aware of. There is no definition of commercial in the ordinance.
- When we brought this version to council, my instruction was to use the word "and", after that my next instruction was to change it to the word "or." It was staff that gave instruction to change wording. In the Hearing meeting the wording was "or." It does make a big difference. All the "and" have been changed to "or."
- I understand that the recommendation was from Lora Isaacs, that that was how it was written in the City of Peoria.
- This applies to a commercial vehicle that 10,000 lbs. or more "or" a commercial vehicle that has a one ton chassis; either way it must be commercial. Semi-trucks and trucks kept by Councilmember MacKay's husband.
- It's about residential parking. Agenda item B is regarding residential parking and agenda item C deals with non-residential parking, other areas in town. We are addressing agenda item B and we will be getting to agenda item C after this.
- I would say that the word change is so significant it will have to go back to a hearing process. I propose bringing several draft ordinances to a work session for direction.

Councilmember Johnson

- So my pickup that I use to pull a trailer is not commercial?
- No, the ordinance says, "OR" and not "AND". Why would staff change it when we said "and?" I don't want the word "or" in there. I was at the Hearing and I don't remember anyone saying that ("or").

Robinson, Town Manger

- How does the RV ordinance come into play to protect the usage to recreational vehicle? Someone that has a recreational vehicle or a vehicle that has this weight and is pulling an RV, is it protected by the RV ordinance?

- Staff needs direction from council, the discussion was “or” or “and.” So I say to council we’ve had the hearings, you see the ordinance, if you want a definition for commercial or do you place “and” in place of “or?” We have had it clear in the Hearings about Title 17. In the Hearing minutes I called for a definition on the word commercial because once again we were all wrap up, unfortunately, Lora Isaac is not here to provide her responses. If we go back to a work session, what does council want to review?

Vice Mayor Duran

- Are you basically speaking about semi-trucks?
- This is only residential parking?

Councilmember Mello

- If they are in commercial districts C-1, C-2, C-3, as long as they are not on the street they are allowed?

Councilmember Chittenden

- Right now we are talking about residential parking. Chief, does that mean only parking on the street? So if a landscaper has a pave surface along his house, so this is saying he cannot park his personal trailer or truck along the side of his house.
- On the public hearings, do they have to be at 10:00 a.m.? Can they be in the evening? I know a lot of people that will be impacted by this. I don’t want to impact any residents if that’s their livelihood and cannot park their vehicle and trailer and we have no place for them to place their vehicle. I will not approve anything unless we have a place for their vehicle.

Motion to Table Agenda Item B and C – Councilmember Mello

Second – Councilmember Johnson

Motion passed unanimously on a voice vote.

- B. Discussion and/or Action Re: Approval of Ordinance 10-10, Amending The Town Of Youngtown, Arizona, Amending The Code Of Youngtown, Arizona, Title 10 Vehicles, Chapter 10.16 Parking, By Amending Section 10.12.160 Restrictions On Certain Vehicles, Paragraph A, Related To Restrictions On The Operation Of Commercial Vehicles Having Both A Gross Vehicle Weight Rating In Excess Of Ten Thousand Pounds And Exceeding A One-Ton Chassis Rating And By Amending Section 10.16.070 Stopping, Standing And Parking, Paragraphs E And F And Adding New Paragraph G All Related To Restrictions On Loading And Parking Commercial Vehicles Having A Gross Vehicle Weight Rating In Excess Of Ten Thousand Pounds Or Exceeding A One-Ton Chassis Rating On Public Streets Within The Town; Providing For Repeal Of Conflicting Ordinances; Providing For Severability; And Providing For Penalties. (ISAACS/McDONALD)**

Motion to Table Agenda Item B and C – Councilmember Mello

Second – Councilmember Johnson

Motion passed unanimously on a voice vote.

- C. Discussion and/or Action Re: Planning & Zoning Case #10-08 and Approval of Ordinance 10-17, Amending The Code Of Youngtown, Arizona, Title 17 Zoning, By Amending Chapter 17.20 R Rural District To Amend Section 17.20.080 Sign Regulations, Chapter 17.22 R-43 Rural Residential Dwelling District To Amend Section 17.22.090 Sign Regulations, Chapter 17.24 R-3 Single-Family Dwelling District To Amend Section 17.24.090 Sign Regulations, Chapter 17.28 R-2 Two-Family Dwelling District To Amend Section 17.28.090 Sign Regulations, Chapter 17.32 R-1 Multiple-Family Dwelling District To Amend Section 17.32.090 Sign Regulations, Chapter 17.36 C-1 Commercial District To Amend Section 17.36.110 Sign Regulations, Chapter 17.40 C-2 Commercial District To Amend Section 17.40.090 Sign Regulations, And Chapter 17.50 Open Space Districts To Amend Section 17.50.050 Sign Regulations, All Relating To Signage To Conform To “2010 Town Of Youngtown Sign Ordinance”; Providing For Repeal Of Conflicting Ordinances; And Providing For Severability. (ISAACS/McDONALD)**

Swann, Town Attorney

- When the new sign ordinance was adopted many the section numbers changed, so when parts of the zoning code refers to the sign code it refers to section that now don’t exist or are different. All we are doing is changing specific section references, merely a housekeeping rule.

Motion to approve Ordinance 10-17

Councilmember Chittenden

Second – Councilmember Mello

- E. Discussion and/or Action Re: Update of Special Council Committee, Youngtown Visionaries meeting on December 6, 2010. (LeVAULT)**

Mayor LeVault

- We had our second meeting. Next meeting is January 3, 2011. Very well attendant. We have four sub-committees dealing with specific areas; (1) Business Model Committee looking at how government does business;

(2) Re-zoning/Commercial Development looking at annexations; (3) Non-commercial revenues (4) Looking at additional taxes.

**F. Discussion Re: Town Attorney Report on the Status of Medical Marijuana Draft Ordinance. (SWANN)
Swann, Town Attorney**

- Tomorrow the Arizona Department of Health will be issuing its proposed draft regulation on Medical Marijuana. It has been identified that the law talks about non-profit; there is no definitions of what is a non-profit. Looking at town maps, locations of parks, boundaries of residents, location of commercial C-2 districts we have changed the 500 feet requirement to 1000 feet. This is the only significant change. The first citizen review is December 28, 2010 and Planning & Zoning Hearing January 4, 2011.
- On the town's website, a notice has been posted regarding the intent to impose business fees on these types of establishments. Last year the legislature created a new law that cities and town may not increase business fees without a 60 day notice.

7. Call for Executive Session

Executive Session: Convene Executive Session pursuant to A.R.S. § 38-431.03(A) (3) for discussion or consultation for legal advice with the Town Attorney for legal advice regarding any above agenda items, as needed.

- 8. Citizens Comments/Appearences from the floor:** Please complete a speaker request form for the Town Clerk, listing the subject you would like to discuss. Each speaker is limited to five (5) minutes. Before you begin to speak, identify yourself by clearly stating for the record, your name and address. Non-Agenda items: This is the time for citizens who would like to address the Town Council on any non-agenda item. The Council will listen to comments, and may take any one of the following: 1) Respond to criticism, 2) Request that staff investigate and report on the matter, or 3) Request that the matter be scheduled on a future agenda.

Wallace Simons, Business Owner

- I am the proud owner of Women's International/Pet Health Pharmacy on 111th Ave and Alabama. We been there 10 years. Even though our lease was not up, I've signed up for another five years just as an incentive for the landlord to resurface that parking lot. We just celebrated our 25th year business anniversary here at Greer Park. It was a good year. We shared with our employees \$250,000. In recognition of their hard work. I employ approximately 200 individuals, 100 here in Arizona and 100 in Wisconsin. The reason for all this background is that I am interested in applying for a license for a dispensary with the State of Arizona. As a registered Pharmacist since 1962 I grew up in the time when drugs were not an issue. I am glad to say that I never experimented with drugs nor taken any prescription drugs. I have a niece that had breast cancer at an early age. She told me that when she went through chemotherapy it caused nausea but felt better once she smoked a joint. I would like to develop a dispensary here in Youngtown with the same impeccable reputation with standards as the Women's International Pharmacy. I am not married to this location, however there are suites available. I do not know how this might work, but I am interested in having the involvement of the Youngtown Police Department for security. I like the idea that the growing of and the dispensary are two different locations. I am assuming that the draft ordinance prepared here today is a boiler plate that has come from other states. What I would like council to consider, if this is a legal operation, why would you like these dispensaries tucked away in industrial part areas away from church, parks, schools and residents. If a dispensary is to be licensed, regulated and held to high standards, why not there forth put it out front like a pharmacy? Nothing can be consumed on the premises, and I am assuming that it would be pickup and taken home for use just like people picking up their prescription drugs. The way the ordinance reads and the way Youngtown is laid out, it would be impossible to have a dispensary in Youngtown; along with the 500 feet now being changed to 1000 feet.

Judy Rae Schell, Spanish Gardens Apartment

- I would like to thank Chief McDonald. I brought some issues to him and they were taken care of. Some of the residents have asked me to bring to council's attention is that some vehicles are having gas siphoned out (parked along 113th Avenue).
- Any information on the Mountain View Apartments, who will be taking over?

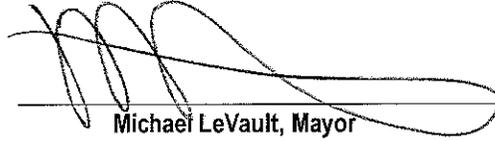
Mayor LeVault

Council is unable to respond to non-agenda items. It is suggested that you speak with Town Manager Robinson following the meeting, who may be able to answer your questions.

9. Announcement of next Work Session and Regular Meeting: Thursday, January 6, 2011, at 7:00 p.m.

10. Adjournment.

Motion – Vice Mayor Duran
Second – Councilmember Oglesby
Meeting adjourned at 8:45 p.m.



Michael LeVault, Mayor

Attest:



Diane Cordova, Deputy Town Clerk

Minutes approved at the January 6th, 2011 Regular Meeting.