



MINUTES OF WORK SESSION OF THE COMMON COUNCIL OF YOUNGTOWN, AZ

THURSDAY, March 3, 2011, TOWN CLUBHOUSE, 12033 CLUBHOUSE SQUARE

1. Call to Order Mayor LeVault called the meeting to order at 7:04 p.m.
2. Roll Call Council present: Mayor Michael LeVault, Councilmembers Margaret Chittenden, Dorena Mello, Shirley Oglesby, Susan MacKay, and Judy Johnson. Absent: Vice Mayor Jack Duran
Staff present: Town Manager Lloyce Robinson, Town Attorney Michelle Swann, Police Chief Terry McDonald, Public Works Manager Mark Hannah, and Town Clerk/Treasurer Letty Goldberg and Deputy Town Clerk Diane Cordova.
3. Business
 - A. Discussion Re: Resolution 11-06 declaring that Youngtown no longer wants to administer floodplain regulation.
(Hannah)
Public Works Manager Hannah
 - In 2005 the Town decided to take over its own floodplain management. For whatever the reasons those reasons are no longer applicable. Mr. Tim Murphy from the Maricopa County Flood Control District (MCFCD) said if Council approves the Resolution MCFCD would become our consultants, without a fee. There are many regulations out there that could bring serious consequences to the Town. The State of Arizona Water Resource Department looks to leadership from the Maricopa County Flood Control District. They are the experts in the subject matter. My recommendation is to let the experts in this subject matter take back regulation of the Town's floodplain.Mayor LeVault
 - I believe this was done in 2005 due to the results of the proposed Salt River Materials Group sand and gravel mine. I think the thought was that if we had local control we could exert more authority. Maricopa County Flood Control was preempted by State Law from either denying or delaying the permit application on the mine. Mr. Timothy Murphy with the Flood Control District is present tonight to answer any questions.Mr. Murphy, Maricopa County Flood Control District
 - I do not have a prepared statement. I am here to answer any questions the Council might have.Councilmember Chittenden
 - Have there been any expenditure on the mine and is there a chance of the mine becoming a problem?Mayor LeVault
 - The proposed mine lies within a county island. The permit was issued in 2006. We cannot see how we can maintain this kind of authority ourselves. It's a potential expenditure. We don't have the expertise on staff to administer this.Robinson, Town Manager
 - We would have to hire a hydrologist and other consultant at a high cost. It has been good that there hasn't been any expense. I strongly recommend to Council to approve the Town's floodplain management to go back to MCFCD for enforcement.Swann, Town Attorney
 - We recommend Council give authority back to Maricopa County Flood Control District.

- B. **Discussion Re:** Ordinance 11-05 repealing Chapter 15.12 and adopting the documents the Maricopa County Flood Control District (MCFCD) requires to be adopted in order for it to perform in order for MCFCD to take over management and designating the Town Engineer as the National Flood Insurance Program Floodplain Coordinator for the Town of Youngtown. (Hannah)

Public Works Manager Hannah

- The resolution 11-06 expresses the approval of Council to allow the Town's floodplain management to go back to the Maricopa County Flood Control District and adopting Ordinance 11-05 places it into effect.

- C. **Discussion Re:** Status of State of Arizona Department of Health Services administrative rules regarding medical marijuana dispensaries, cultivation sites, caregivers and patients and potential amendments to Town Zoning Code to conform. (Swann)

Town Attorney Swann

- The Arizona Department of Health Service decided that the final administrative regulations were not going to be issued on March 1, 2011 but instead will be released on March 28, 2011. Due to that I don't have any updates for Council.
- We will be initiating a zoning code text amendment to change the separation requirements on residential districts. It will need to be changed to 250 feet from residential. This will allow the placement of medical marijuana dispensaries to be in C-2 in north part of town along Grand Avenue. It will not be allowed on the PAD at Agua Fria Ranch and not allowable on C-2 along Olive Avenue and not allowable by the business Another Garage on Peoria Avenue and not on the APS substation. These zoning properties will follow the 1000 feet zoning requirement. We will be scheduling a citizen's review hearing; hopefully we will hear from citizens during this process and not after.

Councilmember MacKay

- I saw in the news that the Town of Jerome was going to specifically allow medical marijuana locations for tax revenue. I thought that medical marijuana dispensaries were going to be nontaxable, when did this change?

Town Attorney Swann

- The sale tax on this has been going back and forth. The State Revenue Department had taken the position that absolutely not taxable. The League of Cities and Towns says "Oh yes, you can tax medical marijuana." The Legislature is working on clarifying that, yes, it can be taxed.

Councilmember Mello

- I thought that the medical dispensaries were nontaxable and the cultivation growing sites were going to be taxable, did this change?
- Another question that is popping up is the medical certification locations.

Town Attorney Swann

- The sales are going to be taxable. The cultivation growing site can supply up to five nonprofit dispensaries. The cultivation sites are supposed to be nonprofit as well. This is not talking about a nonprofit 501(C)3. What is being written up says nonprofit. Blue Cross Blue Shield (BCBS) is a nonprofit. I'm pretty sure the CEO of BCBS is making money.
- Part of the regulation that the Arizona Department of Health Services is trying to define is the patient-doctor relationship.

Councilmember Chittenden

- Have we heard how many dispensaries Maricopa County will allow?
- The C-2 on Michigan Avenue and Grand Avenue, will still follow the 1000 feet requirement?

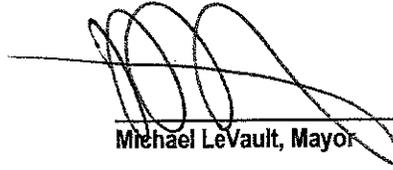
Town Attorney Swann

- The dispensaries are being administered by cancer area which is now called Community Health Assessment Analysis or CHAA. Youngtown is located in two of these CHAAs, Sun City and Surprise. We can ask for Youngtown to be designated into one of these two CHAAs.
- Currently there are separation requirements between usages. The requirement of 1000 feet to schools, parks, daycares will stay the same. It's the 250 feet requirement to residential area that will change. If we don't we inadvertently zone applicants out of Youngtown. We have to have reasonable zoning requirements.

Regular Council Meeting: Thursday, March 3, 2011 immediately following Work Session.

Adjournment.

**Motion to adjourn – Councilmember Mello
Second – Councilmember Johnson
Meeting adjourned at 7:25 p.m.**



Michael LeVault, Mayor

Attest:



Diane Cordova, Deputy Town Clerk

Minutes approved at the March 17, 2011 Regular Meeting.