

**MINUTES OF THE STUDY SESSION
OF THE TOWN COUNCIL OF THE TOWN OF CHINO VALLEY**

**TUESDAY, JANUARY 19, 2016
6:00 P.M.**

The Town Council of the Town of Chino Valley, Arizona, met for a Study Session in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona, on Tuesday, January 19, 2016.

Present: Mayor Chris Marley; Vice-Mayor Darryl Croft; Councilmember Mike Best; Councilmember Susie Cuka; Councilmember Jack Miller; Councilmember Corey Mendoza

Absent: Councilmember Lon Turner

Staff Present: Town Manager Robert Smith; Assistant Town Manager Cecilia Grittmann; Town Attorney Phyllis Smiley; Finance Director Joe Duffy; Assistant Public Works Director/Town Engineer Michael Lopez; Development Services Director Ruth Mayday; I.T. Specialist Spencer Guest (Videographer); Town Clerk Assistant Amy Pyeatt-Lansa; Town Clerk Jami Lewis (recorder)

1) CALL TO ORDER; ROLL CALL

Mayor Marley called the meeting to order at 6:02 p.m.

2) Discussion regarding proposed amendments to the UDO further regulating the manner and placement of Medical Marijuana uses in the Town of Chino Valley. (Mayor Marley; Vice-Mayor Croft)

Development Services Director Mayday presented the following topics:

Proposed Text Amendments

- 1) Cultivation facilities on-site (same site as dispensary) only.
- 2) Remove Cultivation and Infusion facilities from Conditional Uses in AR-36, AR-5 and AR-4 zoning districts.
- 3) Require Conditional Use Permit ("CUP") for Cultivation, infusion, and dispensaries in CL, CH, and I zoning districts.
 - 3a) Require CUP in I.
 - 3b) Require CUP in I and CH.
 - 3c) Require CUP in I, CH, and CL.
- 4) Require 500-foot separation between churches and medical marijuana ("MMJ") facilities.
- 5) Measure separation from property line to property line.
- 6) Exclude Public Right-of-Way from measurement of separation.
- 7) Limit size of cultivation facilities to 3,000 square feet/other specific size.

Considerations

- *CUP*: This was not a tool to keep uses out; if an applicant agreed to conditions, the Commission or Council could not deny a CUP.
- *Pros and cons of concentrating or separating uses*: Like uses in close proximity to each

other were easier to monitor; concentration of uses could also minimize impact on the greater community; and separation requirements buffered incompatible uses from each other.

- *Rezoning*: Zoning/rezoning was not a right; compliance with the General Plan made it difficult to say "no."
- *Exclusionary Zoning*: The Town could not use zoning to exclude legal uses; conditional zoning marijuana could be construed as exclusionary.
- *Practical Effect*: The impact of certain amendments may be minimal.
- *Variances*: These may be granted by the Board of Adjustment.
- *Proposition 207*: Council needed to be cognizant of Prop 207 protected development rights.

MMJ Developable Land

A map depicted the developable Commercial and Industrial zoned land with the 500-foot separation buffer that would allow cultivation under the current regulations.

Protected Development Rights Plan ("PDRP")

Ms. Mayday provided an example of a PDRP.

Town Attorney Smiley advised Council that:

- Regulations generated by Arizona Department of Health Services that were required by the proposition and by statutes, were quite restrictive on MMJ cultivation and dispensaries.
- Council must decide whether additional restrictions were best for the Town. They may consider the comments of the public and also take into consideration the business community and current growers.
- The Town's regulations must meet a standard of reasonableness.
- CUPs may not give the Council the level of control that they believe they would have. By allowing MMJ as a use, subject to a CUP, Council would determine that the use was appropriate in a zoning district subject to conditions to mitigate negative effects. If the applicant met the requirements to obtain a CUP, the Council did not have discretion to deny. Additionally, after the CUP was granted, it would be difficult to revoke because it would become a grandfathered use.
- Proposition 207 only applied to the property that was subject to the regulation, not to adjoining properties.
- Council might increase separation requirements and impose requirements that were not in state law.
- In current regulations, the Town had separation requirements for dispensaries. Those could be expanded to include cultivation and infusion facilities. Since the separation requirements were included in the public notice, the Council might do that without readvertising and going back to Planning and Zoning Commission.
- If the Town imposed new restrictions, the current cultivation facilities will become legal non-conforming uses and might continue their operations without expansion. If they wanted to expand, a PDRP, approved by the Council, would be an effective tool.
- Proposition 207 gave a property owner the right to compensation from the Town if a new regulation was imposed or applied to the property owner's property and that imposition decreased the value of their property. After notice of an action from the property owner, the Town had 90 days to act by either paying the compensation, repealing the regulation, deciding not to apply the regulation to the property, or allowing the lawsuit to proceed.
- A PDRP was a tool to prevent a property owner from bringing a Proposition 207 claim because it might allow for planned expansion and thereby prevent a claim of diminished value.
- The Town could not impose regulations for recreational marijuana because that was not a

legal activity at this time. If the voters approve an initiative to allow recreational marijuana use, the Town will have time to impose new regulations to address it.

She also reviewed the options that Council could adopt without having to go back to the Planning and Zoning Commission.

Council and staff discussed the proposed text amendment options:

- Option 1: This may not be a valid option, as the state only allowed each dispensary one off-site grow facility.
- Option 2: This option was acceptable, and Council preferred to remove CUPs and related permitted uses.
- Option 3: No discussion.
- Option 3a: If Council restricted growers to Industrial zones only, there were only two areas for a new facility. New Industrial areas would have to be created by Council, which would most likely apply to CL and CH zoned land with appropriate transportation to serve it and Council's determination that it was good for the Town. Staff did not believe Council would not want any Industrial uses on SR 89.

Council recessed the meeting at 6:53 p.m. and reconvened it at 7:03 p.m.

- Options 3b and 3c: Council preferred Option 3a.
- Option 4: Council could restrict all MMJ facilities to the same distance requirements in the UDO as dispensaries, except that cultivation and infusion in AR districts required a 500-foot distance from any existing residential use. "Schools" did not include homeschools, or those licensed by the state agency that regulated care facilities for the developmentally disabled.
- Option 5: Council preferred using the setbacks for all MMJ facilities in lieu of this option.

Council and staff discussed currently existing MMJ facilities:

- Prop 207 gave property owners the right to compensation from the Town if the Town applied a new regulation to the property that specifically diminished the property's value.
- Once Council adopted amendments, the current MMJ uses will become legal non-conforming uses and could not expand the use or make it more intense. Staff proposed that the PDR Plan, as provided in statute, be used for existing and future MMJ uses.

Mayor Marley recapped Council's discussion:

- MMJ uses on Industrial zoned property only;
- No CUP required; and
- Existing uses that will become legal non-conforming will have the right to propose a PDR Plan to Council.

Mayor Marley recessed the meeting at 7:42 p.m. and reconvened it at 7:50 p.m.

- Option 6: No discussion.
- Option 7: As the UDO already included standards for lot coverage, Council did not believe there was any value to limiting square footage of structures.

Council also asked staff to provide information on any churches within 500 feet now of growing facilities.

3) Discussion regarding the Administrative Policy, "Communications Policy / Social Media Policy" for the Town of Chino Valley. (Cecilia Grittmann, Assistant Town Manager)

Ms. Grittmann reported that items or opinions discussed in various Council communications might be perceived to be a personal opinion, such as the Mayor's Reports. Such expressions on specific matters by more than three councilmembers could be a violation of the Open Meeting Law, as such items might come before the entire Council for a future discussion.

Staff needed Council's input related to their own communications:

- If Town platforms were where personal opinions were to be vetted, where should such opinion pieces should be allowed, and what Town resources should be committed to developing them?
- Should councilmembers, when speaking in formal interviews, provide a disclaimer that one councilmember does not speak for all?
- Should Council include a budget for each councilmember so that councilmembers are on equal footing for access to resources?

Council and staff discussed:

- Developing a budget for gatekeeper if councilmembers desired to have individual social media.
- Providing separate space on the website for each councilmember to post current projects, focus area comments, accomplishments, etc.
- How the Town's social media was managed.

Council generally approved of:

- Mayor Marley continuing his Mayor's Reports.
- Reports and factual communications, but not opinions.
- Including the disclaimer.

Council instructed staff to:

- Provide statistics on website use.
- Explore the possibility of a webpage for each councilmember.
- Tone down "legaleze" in the policy.

4) Discussion regarding use of USDA WIFA refinance savings/proceeds to fund Center Street sewer extension; and the Town's water and sewer extension, buy-in fee, and connection policies. (Mayor Marley)

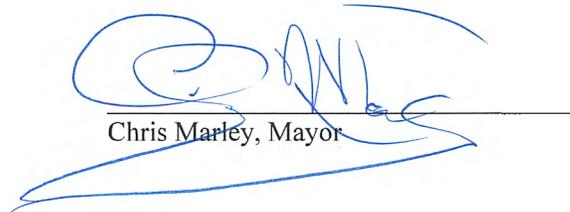
Mayor Marley reviewed the items resolved at the prior meeting wherein this item was discussed.

Council asked staff to provide the Mollie Rae project costs and defer this item to the February study session.

5) ADJOURNMENT

MOVED by Councilmember Mike Best, seconded by Councilmember Jack Miller to adjourn the meeting at 8:20 p.m.

Vote: 6 - 0 PASSED - Unanimously



Chris Marley, Mayor

ATTEST:

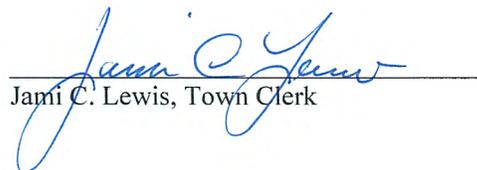


Jami C. Lewis, Town Clerk

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the Town Council of the Town of Chino Valley, Arizona held on the 19th day of January, 2016. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 9th day of February, 2016.



Jami C. Lewis, Town Clerk