

PRESCOTT CITY COUNCIL
STUDY SESSION MEETING
TUESDAY, JULY 12, 2016
PRESCOTT, ARIZONA

MINUTES OF THE STUDY SESSION MEETING OF THE PRESCOTT CITY COUNCIL
HELD ON JULY 12, 2016, in the COUNCIL CHAMBERS located at CITY HALL, 201
SOUTH CORTEZ STREET, Prescott, Arizona.

◆ **CALL TO ORDER**

Mayor Oberg called the meeting to order at 1:00 p.m.

◆ **ROLL CALL:**

Present:

Mayor Oberg
Mayor Pro Tem Lamerson
Councilman Blair
Councilman Lazzell
Councilwoman Orr
Councilman Sischka
Councilwoman Wilcox

Absent:

None

I. DISCUSSION ITEMS

A. Discussion re Possible Regulations for Structured Sober Living Homes

Jon Paladini, City Attorney, presented. He provided possible options for the ordinance language.

- Purpose
Mr. Paladini said the ordinance needed to be carefully crafted. He said the primary purpose of the ordinance would be to protect the residents of structured sober living homes and for participants to achieve and maintain sobriety

Mayor Oberg said the ordinance would apply to homes located in residential areas and not commercial.

Mr. Paladini said the ordinance would apply to single-family residences. He said the ordinance applied to homes that were not regulated or licensed by public health services.

Councilman Blair asked how many related people could live together in a house.

Mr. Paladini said under the current City Code the number of related people was unlimited as long as no building and safety codes were violated. He said the number of unrelated people was four. He said if the number was five to twelve the residence became a traditional group community residence or a transitional residence. He explained the difference between traditional and transitional. In a traditional group home someone would stay for an indefinite period of time. In a transitional group home the time was measured in terms of days, months, and maybe up to a year. Structured living homes would fall under the transitional group home definition. Structured living homes were allowed in multi-family zones.

Councilman Blair said a traditional group home in a single-family residential neighborhood was prohibited in the current code. Mr. Paladini said yes. He said the use could be allowed under certain circumstances.

Mr. Paladini continued with the presentation.

- Intent
To protect the residents of the structured sober living homes from abuse, mistreatment, inadequate supervision and overall protection of what was deemed a vulnerable population (disabled group)
- The City had to achieve a government interest and use the least drastic means necessary to achieve that interest
- ARA 9-500.38, Definitions
Any premises, place or building that provides alcohol-free or drug-free housing, promotes independent living and life skill development
- Follow Fair Housing Act, American Disabilities Act and EO statues requirements

Councilman Sischka asked if the homes would be considered transitional or businesses.

Mr. Paladini said the homes were considered residences. He said the operation of the home was considered a business. He said the operators were required to obtain licenses.

Mr. Paladini continued with the presentation.

- What does ARS 9-500.38 authorize
Cities and towns may adopt by ordinance standards for structured sober living homes that comply with State and Federal Fair Housing Laws and the Americans with Disabilities Act
- Cities could require a written notification from sober living homes
- Cities could require supervision requirements for the residents
- Cities could require an operations plan
- Arizona Law allows abatement and removal for nuisances

Mayor Oberg asked if gambling addiction should be included within the language. Mr. Paladini said the statute strictly refers to drug and alcohol recovery. He said if the home was for gambling addiction, arguably it fell within the community residential definition, but it was unknown if gambling addiction had been designated an addiction. He said if gambling was designated a disability under law those people would have the same rights and protection as drug and alcohol disabilities.

Councilwoman Wilcox asked about sex addiction. Mr. Paladini said the same rules would apply if sex addiction was listed as a disability under the law.

Mr. Paladini said the definition did not include structured sober living homes as private residences, where a family member was required to receive out-patient behavior health services for substance abuse or addiction as a condition of living in the residence. For example, if a parent told a child they could continue to live in the home only under the condition that they go through a treatment program that would not be considered structured sober living.

Councilwoman Wilcox asked if the City could require the business to prepare an operations plan and if the City could dictate what was included in the operations plan.

Mr. Paladini said the statutes required the operator to develop the plan. The City would be able to state what it would like in the plan, but could not state specifically what went into the plan. He mentioned that overseeing the ordinance would be a staffing issue. He said most cities did not have health experts to deal with the issues that may arise from group home settings. He said the City could adopt an ordinance, but if the City did not have the expertise or staffing to enforce the ordinance would be useless.

Councilman Lazzell understood drafting of the ordinance would be the responsibility of the City. The statute advised what should be included, but did not dictate what should be included. Mr. Paladini said that was correct.

Mr. Paladini said the City should determine minimal requirements and not limit the options of the operator.

Mr. Paladini continued with the presentation.

- Prescott City Charter, Article I, Section 2
- Enact local legislation and determine policies deemed necessary
- Prescott City Charter Article I, Section 3
- He said the City Charter allowed the Council to carry out laws
If there was a statute that granted authority, and did not limit, the City could adopt an ordinance that went beyond
- What does the law require – the law requires the City must provide reasonable accommodations
- Application process

- Permit – issued as ministerial/administrative matter
- Denial/Revocation of Permit (false information provided, pled no contest/convicted within the last seven to ten years of certain criminal offenses).

Councilman Lazzell asked if the business license process would be separate from the licensing for group homes.

Mr. Paladini said yes. He said once the ordinance was in effect and someone wanted to operate a sober group home they must apply and go through the permitting process.

Councilwoman Orr asked if the applicant provided false information would the permit be denied. Mr. Paladini said yes.

Mayor Pro Tem Lamerson asked what would happen if a House Manager ignored illegal happenings in the home. Mr. Paladini said language could be included in the ordinance to deal with those issues.

Councilwoman Orr said monitoring of the ordinance would depend upon whether there was staff available.

Mr. Paladini said that was correct. He said the House Manager was the responsible person for overseeing the program. He said one of the requirements would be to perform background checks. He said it would be unrealistic to expect 100% oversight 24 hours per day.

Councilwoman Orr reviewed the background process for teacher certification. She thought the same process should be used for the operating manager(s). She said the ordinance would set the standard.

Councilman Lazzell said the Americans with Disabilities Act considered alcohol and drug addiction a disability. He said as long as someone was in recovery they were considered disabled. He understood no time frame was listed under ADA. Mr. Paladini said that was correct.

Councilman Lazzell asked if the act would be discriminatory towards a recovering House Manager. Mr. Paladini said the process would consider how long a person had been recovering when applying to be a House Manager. Part of the discussion would be to determine the length of time in recovery before applying to be a house manager.

Councilwoman Orr asked if the City would be liable if a house had gone awry. Mr. Paladini said legally not, however if the City turned an eye, there was potential for liability. He said if there was a threat to public safety the City should act. He said it would depend upon the situation.

Mr. Paladini continued with the presentation.

- Rules and regulations
- Other than the house manager(s) occupants must be actively participating in legitimate recovery programs
- House must maintain current attendance records
- Group Home must have a house manager(s) residing on site

Councilwoman Wilcox asked what were considered legitimate recovery programs. Mr. Paladini said recovery programs were according to Arizona law. He said the goal was to ensure residents were enrolled within a recovery program recognized legitimate by the medical professionals, legal professionals, and the industry.

Mayor Pro Tem Lamerson said within the language it would be important to include that caretakers were continuously educating themselves on the knowledge needed to provide service.

Mr. Paladini said the residents had to participate in a recovery program. He said the House Manager did not have to be in recovery to be a House Manager.

Mayor Pro Tem Lamerson said the House Manager should have a level of professional creditability in order to function as a House Manager.

Mr. Paladini continued with the presentation.

- Regulations of House Manager
- House Manager - Twenty four hour resident
- House Manager requirements

Mayor Oberg said for someone to provide adequate care they should be awake at all times. He asked if that language needed to be included. He also asked about counseling and treatment programs.

Mr. Paladini said providing 24-hour awake care would be difficult. He said he would do research on whether providing a House Manager 24-hour a day, but slept on site, would be adequate supervision. He said that would be a policy question. He said providing outside professional counselors or treatment violated the law.

Mr. Paladini continued with the presentation.

- Property must fully be in compliance with all building codes, municipal codes and zoning codes.

Councilwoman Wilcox understood it would require additional staff time to ensure homes were compliant with city codes. Mr. Paladini said that was a possibility.

Mr. Paladini continued with the presentation.

- Prohibiting Use of Alcohol and Non-prescription drugs
- Rules and regulations prohibit the use of any alcohol or any non-prescription controlled
- Other rules
- Persons would be required to register as a sex offender and classified as a Level II or Level III community risk under Arizona law are not permitted to live in a structured sober living home
- There shall be a written visitation policy
- There shall be a good neighbor policy
- Prohibited Services (shall not provide any detoxification; educational, individual or group counseling sessions for persons other than the residents of the structured sober living home; and treatment or recovery planning

Councilman Sischka asked about the use of medical marijuana.

Mr. Paladini said if someone had a valid prescription the home managed the use of the prescription. The House Manager could not dispense prescriptions. He said medical marijuana did not fall within the technical parameters of prescriptions. He said he would do some research on the issue.

Councilman Lazzell suggested asking medical professionals/industry regarding medical marijuana.

Mr. Paladini continued with the presentation.

- House Manager Qualifications and Training
 - Knowledgeable to prevent disruptive client and neighborhood activities
 - Basic first-aid and CPR
 - Effective management of crises, medical and medication issues
 - Interpersonal and behavioral situations
- Minimum Qualifications and Training
 - High school or general equivalency diploma
 - Minimum age of twenty one
 - Enough time in sobriety needed to not relapse
 - Demonstrate an understanding of disease model of addiction
 - Successful completion of First aid, CPR, Infectious disease control and prevention, Crisis prevention and intervention and assisted self-administration of medication

- Deceptive Marketing Practices
 - Not intended for counseling
 - Healthcare services
 - Marketing and advertise correctly
- Reporting Violations
 - Allow for the disclosure by an employee or resident of a structured sober living home if the employee or resident has information or a reasonable belief that the operator or an employee of the operator has violated or was violating City Code without reprisal or retaliation

Councilman Lazzell asked if an indemnity clause could be included; if someone reported something, would their name remain confidential.

Mr. Paladini said usually when someone reported a code violation their name remained confidential and the Code Enforcement Officer became the complainant in any legal action. He said if the Council desired, language could be included stating if possible names/identity would remain confidential.

Mayor Pro Tem Lamerson said investigators would need to be able to determine if the complaint was valid and not the outrage of disgruntled employee(s). Language in the ordinance would need to be clear.

Mr. Paladini said investigators are trained on how to determine what was legitimate and what was not.

Councilman Sischka asked if the City could require that meals be provided.

Mr. Paladini said providing meals would be a policy call. He said again the enforceability would be difficult.

Councilwoman Wilcox understood some homes locked the doors at 8:00 am and the residents had to live on the street or somewhere else during the day. She asked if the City could require community service as part of the program in order for residences to get meals.

Mr. Paladini said legally the City could not require someone to participate in community service. He said he would do research as to what group homes were required to provide.

Councilwoman Orr thanked staff for their efforts. She said this was a great start. She asked when the ordinance would be drafted for review.

Mr. Paladini said at this meeting staff was gathering input from the Council as to what standards/rules should be included in the ordinance.

Mayor Oberg said he would like to solicit public input at the next Council meeting.

Mr. Paladini said as part of the Council memo he would summarize what was discussed tonight. He said the statute did not take effect until August. He said the plan was to implement the City ordinance at the same time the business license went into effect.

Mayor Oberg asked if there was a consensus to move forward. The Council concurred.

- B. Requests for information re the July 12, 2016, Voting Meeting agenda items

No requests were made.

II. ADJOURNMENT

There being no further business to be discussed, the Study Session Meeting of July 12, 2016, adjourned at 2:39 p.m.

HARRY B. OBERG, Mayor

ATTEST:

DANA R. DeLONG