

PRESCOTT CITY COUNCIL
STUDY SESSION MEETING
TUESDAY, JULY 26, 2016
PRESCOTT, ARIZONA

MINUTES OF THE STUDY SESSION MEETING OF THE PRESCOTT CITY COUNCIL
HELD ON JULY 26, 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 (arrived at 1:08 pm)
Councilman Sischka
Councilwoman Wilcox

Absent:

None

I. DISCUSSION ITEMS

A. Public comment re possible regulations for structured sober living homes

Jon Paladini, City Attorney, presented. He said A.R.S. §9-500.38 (formerly HB 2107) authorized cities and towns to adopt by ordinance standards for structured sober living homes that comply with state and federal Fair Housing laws and the Americans with Disabilities Act. He said the purpose of the study session would obtain input, comments, questions and suggestions from the general public, the rehabilitative industry providers and further direction from the Council. He reviewed current City codes and regulations. He said HB2107 would become law in August 2016. He said the City needed to update the City code (by ordinance) to comply with HB2107. He said he wanted to create an ordinance that was legally defensible, based upon Council and community input. He said the time frame for the draft ordinance would be the first meeting in September.

Mayor Oberg asked Mr. Paladini if he would give a brief review of the law.

Mr. Paladini summarized ARS §9-500.38. He said the law allowed registration of businesses, specified supervision/management requirements and establishment and maintenance of an operation plan that facilitated rehabilitative processes.

Councilwoman Wilcox commented there were a number of places in the powerpoint that required operators to have policies. She said she did not see any consequences if an operator ignored or failed to follow their own policies. She asked if this could be addressed under the state law. Mr. Paladini said the ordinance would have minimum regulations with consequences for those that failed to follow the regulations. He said the ordinance would incorporate internal rules and regulations of the operation as a compliance requirement under City Code. He said failure to follow one's own rules would result in violations of City code.

Councilwoman Wilcox commented on specific standards. She asked if specific standards could be included; such as requiring an operator to provide two meals a day, prohibiting smoking in or near the property, allowing residents access to the home 24 hours a day, 7 days a week, and included in the operational plan a discharge plan for a resident if they were evicted, completed their program, or chose to leave.

Mr. Paladini said the ordinance would include language requiring a discharge plan. He said staff was researching food provision, and locked out of home policies. He said regulating smoking at group homes and not regulating other residential homes violated Equal Protection and Fair Housing Act. He said it was a Council policy decision whether to regulate smoking. Councilwoman Wilcox said she would like to discuss regulating smoking at sober structured group homes. Mr. Paladini said he would bring back the smoking ordinance for discussion if the Council desired.

Councilwoman Orr said it was imperative that the Council discuss 24-hour supervision. Mr. Paladini said that could be addressed. He said staff was researching minimum standards for house managers. He said enforcement would be difficult.

Mayor Pro Tem Lamerson said this issue had been discussed for a long time. He said equal protection under the law comes into play. He said when drafting the ordinance staff needed to tread softly. He had questions on how far the Council could go with the ordinance. He said businesses open to the public were not allowed smoking inside or within so many feet of the business. He said the private property right had been stripped. He said he was not prepared to dictate how families rule their homes. He did not think this was the intent of HUD or ADA.

Mr. Paladini said the Council needed to give direction on what they would like in the ordinance. He said the legal department needed to achieve those directions in a legally defensible manner. He agreed the ordinance needed to be crafted cautiously. Mayor Pro Tem Lamerson said sometimes there was the lack of common sense as to what would be appropriate and not appropriate. He questioned if government had the right to intrude on someone's privacy, and said the City needed to be rational.

Sandra Smith, citizen, said nutritional support was very important to maintaining sobriety. She said it was not right for the group homes to dump the participants out on

the street to support themselves. She felt the group homes needed to provide nutritional support as part of the program.

Jeri-Smith-Fornara, citizen, talked about the history of the issue. She said it was not about the conditions of the homes. She said there needed to be regulations. She said the group homes throw the residents out on the street early in the morning and they are not allowed to return until late at night. She urged regulations be established.

Cheryl Barkwill, citizen, asked if the law only addressed alcohol and drugs. Councilman Lazzell said sexual addiction and gambling addiction were not covered under the Americans With Disabilities Act.

Ms. Barkwill asked how those homes were governed. Mr. Paladini said City codes restricted the number of unrelated people that could reside together.

Ms. Barkwill asked if other addiction homes (not alcohol and drugs) had to register. Mr. Paladini said not with the City. He said the structured sober living ordinance dealt with people in recovery from drug and alcohol abuse. Ms. Barkwill said other types of group homes could be located within the City without the City's knowledge. She said the other types of group homes do not have to register, so how does the City know they existed. Ms. Barkwill asked if the language could state managers had to be certified.

Mayor Oberg said the City was working with Yavapai College to create a certification training program. He encouraged people to attend future Ad-Hoc Committee meetings on the second Wednesday of each month.

Chuck Abbot, Abbot Insurance, talked about the importance of insurance certifications and manager certifications. He mentioned JACO and CARF insurance coverages. He thought the insurance industry had set forth a model and standards that could be used as tools.

Mayor Oberg asked if the group homes had to meet the requirements of JACO and CARF. Mr. Abbot said no. He said the insurance industry sets standards for outpatient care. He said the independent commissions were not required to obtain insurance. He said the insurance companies were working on changing the inadequacy.

Mayor Pro Tem Lamerson said he did not want to infer that he did not support certifications. He said he supported banning smoking City-wide and ensuring group home businesses were licensed and registered. He said there needed to be annual certification for managers.

Mayor Oberg asked if there was a difference between the people who operated the home and the people who actually resided in the home. Mr. Paladini said yes. He said the use of a residence for a group home for the disabled were deemed to be a family/residential type use. The operation would be considered a business. He said the

regulation of smoking in a business was different than the regulation of smoking in a home.

Councilman Sischka asked if the standard for “no smoking” for a business was different than the standard for homes. Mr. Paladini said the difference was whether the place was being used for commercial use vs residential use. He said the City did not regulate smoking in a residential use. Councilman Sischka asked what determined the property was for commercial use. Mr. Paladini said under the law group homes were considered residential.

Marla Festenest, citizen, said she was having a hard time understanding the difference between group homes and sober living homes. She said she worked in a group home and the manager/workers had to be certified. She said there were also managers on site 24 hours per day. She said these were businesses and needed guidance and regulations. She spoke on safety issues that needed to be addressed.

Mr. Paladini said the City was discussing structured sober living homes. He said by definition structured sober living homes were group homes for the disabled. He said there were other group homes that were licensed by the State. He said there were also a number of group homes that were not licensed by the State, one being sober living homes. He spoke on what the City was looking to do. He said some of the suggestions were house manager requirements, certifications, food provision, operational requirements, supervision, good neighbor policies, and discharge/exit policies. He said these group homes were not medical facilities and did not provide health services. He said the homes were a residence for people who have a disability. Ms. Festenest said the homes should have more structure. She felt the employees in the homes should be medically trained.

Justin Bachman, Prescott Valley, said he was an owner/operator of a structured living sober home in Prescott. He said he wanted to be solution orientated, wanted regulations, wanted to provide help, wanted trained house managers, did not want people put out on the streets and did not want crime. He said the City needed to come up with definitions (level of care). He did not think 24 hour awake staff was appropriate for all levels of care. He believed structure and guidance were needed. He believed the classes through Yavapai College were great. He said he already did everything the City was talking about. He said the bad homes needed to be identified and regulations enforced. He wanted to move forward in a positive manner to create something that would protect everyone. He asked the Council to involve themselves with the recovery community.

Councilwoman Wilcox asked what type of structure he provided in his homes. Mr. Bachman provided in house managers, residents were not allowed lap tops, cell phones, limited phone privileges, vehicles, and the women in his facilities were not allowed to socialize with men in the community. He said the rules were to show the residents how to recover from a hopeless state of mind and body. He said the residents

were required to go to meetings, perform community service, and be involved in the process.

Councilman Sishka asked about providing meals. Mr. Bachman said the residents were provided \$100 per week to go grocery shopping. He said the residents buy and cook their own meals. He said the house managers monitor what was purchased.

Councilman Sishka understood that was not the way all homes operated. Mr. Bachman said that was correct. Councilman Sishka asked his thoughts on the other standards being discussed. Mr. Bachman said he did not think legally a group home had to provide meals or if smoking could be banned. He said in his homes there was a designated smoking area. Councilman Sishka asked if he believed in being a good businessman. Mr. Bachman said yes. He said there are good businesses and bad businesses.

Tom Kimmerle, citizen, said there were four ends for people with alcohol addiction. He said death, institutionalized, jail, or get sober. He said people who frequented the sober living homes were a drain on society. He said the homes needed to create an environment that created lasting sobriety. He said maximum requirements needed to be set. He said set high standards for the residents. He said the standards should include that residents had to work, be able to feed and clothe themselves, and be part of the community. He said requirements needed to be set for the house owner and house manager.

Councilman Sischka asked who should set the high standards. Mr. Kimmerle said the Council.

Melissa Thornburg, citizen, said she was the Director of Marketing and Outreach for the Prescott House. She said as a recovering alcoholic she understood what it was like to live next to group homes. She said she participated in the focus group to develop the certification program. She reviewed ideas the focus group had contemplated for the certification program. She believed this could be a win-win situation. She suggested creating an ad hoc committee for coming up with community service opportunities, creating sober centers, and have noise fines.

Joe Collings, citizen, hoped the ordinance would cover ADA requirements for inside the home. Mr. Paladini said the Community Development Department had sent out letters to known group homes stating the health and safety annual inspection process would be starting. Mr. Callings talked about supervision and that the police department should have contact information of the manager.

Councilman Lazzell asked if the inspections were to confirm ADA accessibility. Mr. Paladini said yes. He said the homes would be inspected on a case-by-case basis to determine if ADA access was needed. Councilman Lazzell asked for staff to find out what was required.

Erin Bachman, Prescott Valley, said this was about integrity. She said the owners and house managers needed to be educated. She said the owners needed to be aware of what was going on. She said not all the problems were related to group homes. She thought the people with addictions should be helping to make the laws. She talked about an issue with a neighbor. She said if the community were pointing out issues the community should be involved. She said providing food could not be required. She did agree that house managers needed to have the right qualifications. She felt the Council was focusing on issues that did not matter. She said the problem was supervision and accountability, and wanted the focus to be on that.

Mayor Oberg said he saw this as a collaborative effort between the City, Industry, Clients, and the Community. He talked about examples of no 24-hour supervision and problems that arose. He said the ad-hoc committee talked about the need for a place where people could go to be evaluated, if they relapsed.

Brad Royce, citizen, said he was working at the Superior Court during the time the first of the group homes opened. He said by 1999 probation officers were being threatened, by 2003, 60% of his department resigned in protest regarding the half-way houses. He said people in the program were required to register and check in with probation officers. He said virtually this had gone away. He said no-one was checking on the residents. He said people came to Arizona and were violating state and federal laws. He did not understand why this was happening.

Councilwoman Orr asked if this was a federal or state problem. Mr. Royce said federal, state and county problem.

Councilman Sischka asked who was responsible. Mr. Royce said it was a federal and state law that people on probation needed to register with probation officers in the State they reside.

Councilwoman Orr asked what he would suggest. Mr. Royce said the parole officer for Prescott lives/works in Flagstaff. He came to Prescott once a week and sits in an office. The parole officer does not go searching for anyone.

Mayor Pro Tem Lamerson mentioned the Police Chief was in the audience, listening to what was being said. Mr. Royce said there are approximately 100 parolees in Yavapai County that are hiding out.

Councilwoman Wilcox asked what happened in 2003. Mr. Royce said 60% of the Superior Court resigned in protest, because of illegal things happening. He said Prescott has 200 half-way houses with 40,000 people.

Councilman Sischka said no matter what rules, requirements, standards, etc. the Council puts in place, nothing would happen until the parole issue was addressed. Mr.

Royce said the “stand down” direction comes from the federal government. He said the federal government refused to come to Prescott.

Bobbie Cox, citizen, said Thumb Butte Road had been taken over by rehab houses or drop offs. She felt the community was overwhelmed with rehab residents. She said sometimes she was afraid to walk down the aisles in the supermarkets because of the rehab young people shopping.

Steve Emery, citizen, said he wanted to be part of the solution. He said he had many certifications and training. He said he was a product of alcohol anonymous and product of Prescott recovery community. He said not to throw out everyone’s hard work just because of few bad businesses. He said he runs and operates a cash based structured sober living facility. He said the house managers live on site, they are credentialed and there are policies in place. He said he wanted to work with the Council and Yavapai College. He thanked the community for coming out. He asked that they work together to find common rational solutions.

William Brighton, citizen, talked about living in Prescott. He said he was the author of a book *“One Foot In Hell, An American Addiction Story”*. He gave kudos to anyone involved with drug and alcohol programs and recovery. He called the facilities drug and alcohol treatment facilities or severe behavioral health units. He said this was not jet science or brain surgery. He said there was a lot of sickness around town. He said the sickness needed to be treated like a severe sickness. He said there needed to be documentation, supervision, and owner responsibility. He said there needed to be rigid regulations and this needed to move forward.

Byron Lanedale, citizen, said he lived across the street from a group home. He said he did not have a problem with the home except for the four garbage bins that were left on the street. He felt the homes should be required to remove the garbage bins off the street or have a dumpster or larger garbage bins.

Molly McGinn, citizen, said she was the managing partner for Tree House. She said Tree House was for young adults in recovery. She said Tree House did not fall under the regulations of structured sober living facilities. She was interested in the opportunity to change the perception of group homes. She said addiction was a growing and rapid disease and there was a need for highly competent organizations to fight the disease. She said there were a lot of people that wanted to be part of the solution. She said Mayor Oberg, 32 treatment house owners, house managers and others came together to come up with solutions. She thought this would be a long process, but with the incredible talent involved solutions would happen.

B. Requests for information re the July 26, 2016, Voting Meeting agenda items

This item was not discussed.

II. ADJOURNMENT

There being no further business to be discussed, the Study Session Meeting of July 26, 2016, adjourned at 2:39 p.m.

HARRY B. OBERG, Mayor

ATTEST:

DANA R. DeLONG