

MINUTES DRAFT
Special Session
THE PLANNING AND ZONING COMMISSION
TOWN OF CAMP VERDE COUNCIL CHAMBERS
THURSDAY APRIL 14, 2011
6:30 PM

Minutes are a summary of the actions taken. They are not verbatim.
Public input is placed after Commission motions to facilitate future research.
Public input, where appropriate, is heard prior to the motion

1. Call to Order

The meeting was called to order at 6:30 p.m.

2. Roll Call

Chairperson Butner, Commissioners Hisrich, Buchanan, Parrish and Hough were present; Commissioner Freeman arrived at 6:38 p.m.; Vice Chairperson Norton and Commissioner Hisrich were absent.

Also Present: Town Manager Russ Martin, Town Clerk Debbie Barber, Community Development Director Mike Jenkins, Asst. Planner Jenna Owens, and Recording Secretary Margaret Harper.

3. Pledge of Allegiance

The Pledge was led by Butner.

4. Consent Agenda - All those items listed below may be enacted upon by one motion and approved as Consent Agenda Items. Any item may be removed from the Consent Agenda and considered as a separate item if a member of Commission so requests.

a. Approval of Minutes:

April 7, 2011 Special Session

b. Set Next Meeting, Date and Time:

As needed

On a motion by Parrish, seconded by Buchanan, the Consent Agenda was unanimously approved as presented.

5. Call to the Public for Items not on the Agenda

There was no public input.

6. Discussion, Consideration and possible approval of an amendment to the approved Planning & Zoning Commission minutes of March 3, 2011 which were approved on March 31, 2011. The minutes failed to address Chairman Butner's statement concerning the Use Permit not being transferable.

There was no action taken.

Chairperson Butner introduced the agenda item, explaining that he believes there was just a failure of communication, or misunderstanding. The issue at the March 3rd meeting was in connection with John McReynold's property, Campo De Sueno; Butner said that his recollection of the gist of the discussion was that the Use Permit would not be transferable, and that was the conclusion that Butner reached, and it was all right to strike the language stating, "and transferable to new parties pending approval of the Town Council," because it was going to be not transferable. The result was that a recommendation went to Council that basically said, "Approve this in perpetuity," and there was no limitation whatsoever on the Use Permit being transferred with the property. The language regarding "transferable to new parties" was stricken, and it was not indicated in any way that the P&Z recommendation, as Butner understood it, was that the Use Permit would be not transferable. With that explanation, Butner then opened the

discussion for others' recollections.

Commissioner Hough recalled that John McReynolds wanted it in the public record that it was not transferable, so that all could understand that he acknowledged that it was not legally transferable, so it was somewhat of a moot point. Butner said that he has been informed that both Hough and he are mistaken, and it is transferable and runs with the land, and McReynolds can sell his property and the Use Permit goes right with it, and now does not need the approval of the Council because the language had been stricken. Both Butner and Hough believe they were therefore given the wrong information during that meeting. Butner said that he feels somewhat to blame since he should have asked the kinds of questions to make that clear, and apparently that was not done. Hough added that they relied in part on what McReynolds had said about the Use Permit not being transferable.

Jenkins said that he had confirmed with the Town Attorney that Use Permits always transfer with the land, and only if the conditions for approval were to change, the Town can immediately void that Use Permit. Jenkins explained that sometimes cities and towns and counties include the language in the approval saying that "this is not transferable with sale," and there is a question whether or not that is legal. In most cases, where there have been financial improvements in the property as a result of a Use Permit, it could not be expected that on sale of the property all those improvements would go away, particularly with RV parks, for example. Typically, sales of those properties have been sold without applying for renewal of the Use Permits.

Butner said he feels the McReynolds property would not compare to an RV park; the main concern was possibility of that operation becoming much more commercial and loud in a residential area, and the understanding was that the Use Permit not be transferable, and that would be a part of the recommendation to Town Council, and at the very least to be transferable only upon approval by the Town Council which was included in the language presented by McReynolds. Butner asked staff how the problem can be corrected.

Town Clerk Debbie Barber stated that the Minutes as approved are accurate and certified as to their accuracy. As amended, it will not be possible to discuss an amendment of the Minutes, since no matter what the intent of the Commission was, what was actually said is what is in the history now. Perhaps the Commission could reconsider the decision that was made, but as far as amending the Minutes, what was said was reflected accurately. As for the process for holding a public hearing to make such a change, Jenkins said that it will be necessary to talk with the applicant, that he has rights, and to try to find a solution that will appease the Commission. There was further discussion on the failure of the Minutes to include a recommendation for or against the Use Permit going with the property. Butner said the recommendation went forward with an approval on the basis of a misunderstanding of fact, with the result that harm was done; Otherwise, the recommendation would have been qualified, requesting approval with the understanding that the Use Permit would not be transferable.

Butner said that, from the point of view of the P&Z Commission, he would ask that the issue be re-amended in order to be able to qualify the recommendation concerning that particular Use Permit. Town Manager said that staff will consult the Town Attorney to determine what process to follow since the applicant has certain rights that were approved based on a statement or misunderstanding, and what can be done about that, and to make sure that everyone is kept whole with whatever process is decided upon. Martin said that the matter will be brought to the Commission at the next opportunity. Hough said he believes that the matter will have to be handled through a civil suit since nothing criminally has been done wrong. Butner disagreed, and restated his understanding of how the matter went to the Town Council based upon erroneous information presented to the Commission; he said he simply wants to correct the record in that regard and have a precise understanding of what the recommendation is. After further discussion, Martin said that if the applicant agrees and understands what was

intended, then staff can work with him as a start, and then work back to the Commission. Jenkins added that staff will do their best to correct the problem. Butner reiterated his concern that a decision was made based on erroneous information, and the Commission is entitled to correct the recommendation and make it on the basis of correct information. Hough was concerned about the Commission in the future needing to retract numerous decisions because erroneous information had been provided. Butner said that may or may not be the case, depending on whether it was a material fact; this issue was an item of significant discussion to the Commission that evening, and he believes it was a material fact.

7. Public Hearing, Discussion, Consideration and possible recommendation to Council for proposed revisions to the Planning and Zoning Ordinance and Subdivision Regulations.

On a motion by Hough, seconded by Freeman, the Commission voted unanimously to recommend approval of the Planning & Zoning Ordinance for the Town Council, in its entirety, of Sections 1 through 6 as reviewed and completed by the Commission on 4-14-2011 at their Special Session.

Town Manager Martin opened the review of **PART FIVE**, pointing out one change on Page 10, Lot Line Adjustment, adding subparagraph (e); and noted the revisions to the number of work days, as a guiding principle, set forth in the Subdivision Steps chart on Page 13. Martin reviewed the Steps 1 and 2 on the chart on Page 15, and explained the change from "Administrative Approval" to "Written Determination," that is intended to not only help the application, but the Commission as well since the applicant will be better prepared. Martin also reviewed the language for the assurance process and the issue of allowing an unconditional guarantee.

Referring to **PART SIX**, Martin briefly reviewed the Temporary Use Permit process and appeals to the Board of Adjustment and Appeals. Asst. Planner Owens pointed out a change to be made on PART SIX, Page 2, Paragraph D.3., as follows: "Upon receipt of Commission's report, the Council shall consider the recommendation at **a Council Hears Planning & Zoning matter** as a:"

The paragraph defining "**Agritourism**" was approved, with one addition, as follows, in part: "...This may include but not **be** limited to:...." This paragraph will be substituted in for the definition of Agritourism in the Definitions section.

Martin said that upon Commission approval, the process is scheduled to be before the Council as early as April 27th for the first hearing, and then on May 11 and 25. If any of the members have any remorse or second thoughts in the interim, they are urged to share that with staff who are there to help make corrections prior to those dates. Before moving on to the issue of Medical Marijuana, Butner confirmed that there was a consensus on PART SIX.

Displaying a map of Camp Verde, Jenkins said that the previous recommendation in connection with the Medical Marijuana issue was that the dispensary and cultivation facilities would all be allowed in C-2 zoning. There had also been discussion regarding locating grow facilities in M-1 zoning. Jenkins then briefly reviewed the State regulations on mandating the distance between any of the grow facilities, excluding dispensaries in C-2, and pointed out on the map the M-1 zoned areas that were available. The members discussed with staff the options that had been presented regarding locating the dispensary and the grow facilities. During the discussion, Hough said he disagreed with the one-mile separation requirement, in that allowing one grow facility in that one-mile circle was unfair to the free enterprise system and to the private property owners. Butner reminded Hough that the P&Z Commission frequently clashes with the rights of the private property owner. The discussion included speculation on the issues of possible tax revenues and employment. Buchanan said he agreed with Hough on the free enterprise issue, and said he believes that the economy and demand would dictate the number of grow facilities

The members generally agreed that the grow facilities would be limited to M-1 zoning and the dispensary in C-2. Hough suggested that the grow facilities might also be allowed in C-3 with a Conditional Use Permit. In response to a comment on whether the Yavapai-Apache Nation would participate in cultivation of marijuana, Butner said that the Nation has a drug code so strict that it would put an end to marijuana usage pretty much any place on earth. Butner believes there is no way they would welcome medical marijuana with open arms; their government reaction is remarkably conservative. The Commission again discussed allowing grow facilities in C-3 with Use Permits, as well as limiting the number of the grow facilities. Butner suggested, for example, requiring location of a grow facility within one mile of the dispensary and no grow facility within one mile of any other grow facility; the rationale for that is that there would not be any other grow facilities in Town, whether it is associated with the dispensary or not.

The majority opinion appeared to favor limiting the number of grow facilities, with two divergent views. The members basically agreed on the C-2 zoning for the dispensary, and the M-1 zoning for the grow facilities. Butner added, however, before passing that on to Council, clear, specified controls should be included. Butner suggested that staff be asked to prepare in writing the alternatives that have been discussed so that the members can view those, not to limit the options, but that those are the two most cognizable options at this point in time.

Martin said that staff is working on a suggested motion to get the Commission through Parts One through Six, in order to move them forward, with or without the Medical Marijuana. Butner confirmed that the Commission had trust in staff that the changes discussed in Parts One through Four have been incorporated.

It was noted that the Medical Marijuana issue is continued until the next meeting.

8. Commission Informational Reports:

There were no Commission informational reports.

9. Staff

There was no staff report.

10. Adjournment

On a motion by Buchanan, seconded by Parrish, the meeting was adjourned at 7:58 p.m.

Joe Butner, Chairman

Planning & Zoning

CERTIFICATION

I hereby certify that the foregoing Minutes are a true and accurate accounting of the actions of the Planning & Zoning Commission of the Town of Camp Verde during the Special Session of the Planning & Zoning Commission of the Town of Camp Verde, Arizona, held on the 14th day of April 2011. I further certify that the meeting was duly called and held, and that a quorum was present.

Dated this _____ day of _____, 2011.

Margaret Harper, Recording Secretary

