

MINUTES
REGULAR WORKSESSION
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
February 1, 2011
5:00 p.m.

CALL TO ORDER

Mayor Krieger called the City Council meeting to order.

Councilmembers Present: Stuart, Mendoza, Beeson, Brooks, Johnson and Mayor Krieger
Councilmembers Absent: McClendon
Staffmembers Present: City Administrator, Greg Wilkinson
Director of Community Development, Laurie Lineberry
City Attorney, Steven Moore
Various department heads or their representatives
City Clerk, Lynda Bushong

I. REGULAR CITY COUNCIL MEETING AGENDA OF FEBRUARY 2, 2011 – NO DISCUSSION

II. ZONING CODE TEXT AMENDMENT – MEDICAL MARIJUANA

Lineberry informed City Council that the following information is an overview of Proposition 203- Medical Marijuana and what criteria/data the Planning & Zoning Commission and staff used to construct the draft Zoning Code Text Amendment that will allow medical marijuana dispensaries in the City of Yuma. The following was presented:

- Arizona became the 15th state to approve a medical marijuana law through Proposition 203 that was passed by voters during the November 2010 elections by a margin of 4,341 votes.
- The number of dispensaries allowed in Arizona will be calculated on the ratio of 1 dispensary for every 10 retail pharmacy permits issued. Based on this formula, there will be 125 dispensaries state wide, with at least one dispensary located in each County.
- The Arizona Department of Health Services (ADHS) must adopt regulations by April 2011. Cities and Counties are allowed to adopt reasonable zoning regulations, but these regulations must be in place prior to the ADHS registering and issuing certification for dispensaries. Cities and Counties will need to identify how the use will be accommodated in their respective zoning codes.
- The regulations from the ADHS will include:
 - Establishing of a form and content of the registration and licensing of dispensaries, dispensary agents, caregivers, and qualifying patients.
 - The State will also need to create registry identification cards, registration certificates, and a web-based verification system.
- The League of Arizona Cities and Towns (League) generated a draft ordinance for cities to utilize as a starting point.
 - The Police Chief, the Human Resource Director, and the City Attorney's Office discussed the possible issues the City will need to address in order to fully implement Proposition 203.
 - During this process the City Attorney and Director of Community Development had direct contact with the League to inquire and receive clarification on specific areas of the draft ordinance provided.
- The most common Zoning designations that cities are focusing on are:
 - General Commercial due to the retail function
 - Light Industrial to accommodate the need to access large buildings

- ◻ Dispensaries are to be zoned within same zoning criteria as medical offices
- The group identified General Commercial and Light Industrial Zones to be the most suitable for the City of Yuma.
- The ordinance from the League of Arizona Cities and Towns (League) had a provision that required the use of a Conditional Use Permit (CUP). This would require the City to evaluate each application received to open a dispensary through a discretionary review by a reviewing body. The consensus by the group was that adding all restrictions into the original ordinance would eliminate the need to go through an individual process with each dispensary and still address all concerns.
- The ordinance included a section for the ability to add additional criteria. The group identified the following additions:
 - ◻ Limit the number of dispensaries to 1 dispensary per populations of 50,000, based on the most recent Decennial Census.
 - ◻ Medical marijuana dispensaries will need to have a 1,000-foot buffer for areas with sensitive uses such as parks, schools, residentially zoned property, churches, adult-oriented businesses, day cares, and public community centers. For businesses of the same type of use, the buffer was increased to 5,280 feet equivalent to a mile.
 - ◻ Dispensaries will not be allowed in any zone as an Accessory Use, Home Occupation, and in any Heavy Industrial District by means of a CUP.
 - ◻ The dispensaries will need to be located in a permanent structure; mobile homes on lots will not be permitted. The store front needs to be on roadways classified as Expressways, per the adopted City of Yuma General Plan to allow continuous Police surveillance.
 - ◻ Drive-thru services will be prohibited and business licenses shall not automatically renew; an annual staff review and approval will be required.
 - ◻ Operating hours are required to be within Monday through Saturday, 8:00 a.m. to 5:00 p.m., and Sunday, 12:00 p.m. to 5:00 p.m. These hours coincide with the hours established by other jurisdictions.
 - ◻ The group reviewed the definition of a medical marijuana dispensary in Proposition 203 which identifies a dispensary as a place that grows, dispenses, and infuses. To eliminate having separate facilities for each function, each dispensary shall contain both cultivation and dispensary.
 - ◻ Dispensaries will not be allowed on properties with Historic District Overlay, Aesthetic Overlay, Auto Center Overlay, and Bed and Breakfast Overlay.
- The regulations must be in place before the State regulations are released in April 2011.

Stuart asked if dispensaries will have the ability to import from another dispensary. **Lineberry** confirmed that dispensaries will be able to import and even have cultivation outside of city limits. The purpose of imposing that both cultivation and dispensing of medical marijuana take place in the same building is to avoid having several facilities designated for one dispensary within city limits.

Johnson informed City Council that the director of the ADHS was interviewed and stated that significant changes had been made to the originally proposed regulations. Some of the changes included decreasing the required growth percentage for dispensaries. The ADHS is also looking at the possibility of changing the regulations to make it easier for dispensaries to grow in rural areas like Maricopa and Pima County. What type of impact would this have on the City of Yuma? **Lineberry** noted that the City does not have the use of growing marijuana listed in the City Code, but some areas of the proposition need to be further addressed by the State to regulate due to their authority. **Moore** explained that new state law allows dispensaries to cultivate and sell at the same location. The only requirement is to be licensed through the State to do both.

Mendoza inquired if the City plans to address the fact that medical marijuana dispensaries are still considered to be illegal under federal law. Will non-profit medical marijuana dispensaries be held accountable since they are being instructed to comply with all other applicable City, State, and Federal regulations? **Moore** stated that although a medical marijuana dispensary is still considered a crime under federal law the direction of the Justice Department is that they will not prosecute. The states that have legalized medical marijuana will be enforcing state and local regulations.

Beeson inquired if there has been any discussion about an application fee for this type of business and if these businesses will be assessed with different fees. **Moore:** There are multiple areas that still need to be considered and evaluated such as the fees, zoning classification, business licensing, policies within Human Resources Department, and policies within the Police Department as it relates to enforcement issue. Due to the time necessary to go through the entire process the planning and zoning criteria had to be addressed first.

Beeson suggested that if a fee were charged prior to a pre-development meeting, it may assist in eliminating applicants without real interest and avoid misuse of City resources. **Lineberry** indicated that the City encourages pre-development meetings by offering them free of charge. This meeting is an opportunity to discuss plans, requirements, and to clarify any concerns before the applicant spends money on a project. **Mayor Krieger** noted that the normal fees that would apply for any building will also apply in these scenarios. However, State Statute will be requiring annual inspections of these facilities that will require additional use of City resources and appropriate fees should be charged for the service required to be provided. The non-profit status of a business does not waive the charge of any applicable fees.

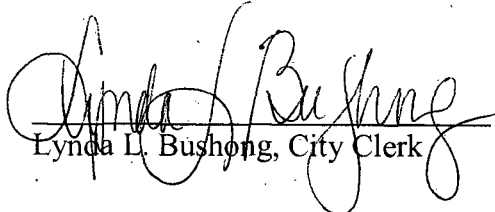
Wilkinson indicated that the most difficult part of this process is putting regulations in place before receiving State regulations and guidance. Adjustments may be necessary once the State regulations are released.

III. ADDITIONAL ITEMS FOR POSSIBLE DISCUSSION

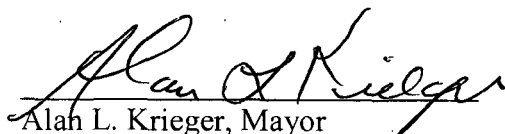
Mendoza informed City Council that he will be attending a meeting next week sponsored by the League regarding the preparation and implementation of Medical Marijuana laws.

VI. ADJOURNMENT/EXECUTIVE SESSION

Motion (Mendoza/Johnson): To adjourn the meeting to Executive Session. Voice vote: **adopted 6-0.**
The meeting adjourned at 5:29 p.m.


Lynda L. Bushong, City Clerk

APPROVED:


Alan L. Krieger, Mayor

Approved at the City Council Meeting of:
May 4, 2011
City Clerk: 