

Wednesday, December 13, 2017

Special Meeting

The meeting was held in the City Hall Conference Room and called to order at 7:00 PM by Vice Mayor Paul Faith.

I. Call to Order

Attendee Name	Title	Status	Arrived
Tim Blake	Council Member	Present	
Ann Donahue	Council Member	Present	
Paul Faith	Vice Mayor	Present	
Peter Mahoney	Council Member	Present	
Jeff Raible	Council Member	Present	
John Romack	Council Member	Present	
Tom Schoaf	Mayor	Absent	

Staff present: Sonny Culbreth, Interim City Manager (telephonically); Terri Roth, City Clerk; Pamela Maslowski, Director of Planning Services; Carolyn Sellmeyer, Director of Human Resources; Susan Goodwin and Phyllis Smiley, City Attorneys.

II. Pledge of Allegiance

Council Member Blake led the Pledge of Allegiance.

V. Business

A. Public Hearing - Group Living Facilities

Vice Mayor Faith opened the Public Hearing at 7:04 PM.

Ms. Smiley began with providing a brief background of the reasoning for this ordinance and the importance of it. It updates regulations regarding traditional group homes and it establishes regulations for Sober Living Facilities, also known as Recovery Residences. There are no State law regulations for Sober Living Facilities, but municipalities are authorized to adopt regulations. She stated that Recovery Residences were added to the Zoning Matrix, and have been included in both single and multi-family zones. Under the reorganization, it was proposed to have a registration process requirement to comply with the Fair Housing Act.

The following items were discussed:

- To prevent a cluster of these homes in one area, the registration process was

devised. Part of the registration is to submit an application 30 days prior to operating and a decision must be made by the Director of Planning Services regarding the registration within seven days upon receipt. Registration is contingent upon a Certificate of Occupancy being issued.

- External appearance cannot signify it is a group home.
- How is it perceived if a home is in violation?
- Permission and authorization from the property owner must be provided as part of the application process. If the property is leased, the same applies.
- What is the screening process for residents?
- Does the floor plan accommodate the number of potential residents?
- What will the parking accommodations be? The backyard cannot be used for parking?
- The garage may not be used for any purpose other than storing vehicles for the residents.
- What is the number of persons per room?
- Will there be enough full baths to accommodate the number of residents? How will it be verified?
- The City needs to consider the cost of enforcement and who will enforce it.
- Will enforcement fall under the Planning, Building, or Code Enforcement Departments?

Ms. Maslowski provided a report from the Planning and Zoning Public Hearing held on December 12th. The following were points made in this hearing:

- The ordinance as it is written does not contain enough enforcement power to ensure compliance
- There needs to be more oversight and control by the City over the operations to ensure compliance.
- The City of Phoenix is reviewing their requirements to tackle the issue of licensing, and have formed a community committee to look into this, who recommended that they have a licensing process. Litchfield Park should wait to see what happens in Phoenix.
- The City should require supervision at the homes at all hours of the day.
- The time required for registering Group Living Facilities with the City prior to beginning operations should be changed from 30 days to 50 days, and the City should send notice of the proposed use to neighbors within 300 feet of the proposed home.
- Some type of Certificate of Occupancy should be issued that could be effective for two years with the condition that failure to comply with the requirements could result in the loss of the Certificate of Occupancy, with reviews performed by the City.

Further discussion included:

- There does not appear to be anything included in the ordinance for oversight, control, monitoring, or action that can be taken if the homes do not comply with the regulations.
- There appears to be two issues with the proposed ordinance: regulation and enforcement.
- Can some of the regulations be changed, such as the number of residents allowed lowered or the separation distance made greater? It is believed it can be done, but if they are reasonable. IF not, the applicants will not they are not reasonable and could file a complaint.
- It is difficult to ascertain the differences between some of the new defined terms.
- The ordinance requires an Operations and Management plan, but does not state what an acceptable plan would be. It was noted that verbiage could be added that supervision requirements must be in accordance with industry standards.
- The City of Prescott appears to have stricter enforcement regulations and these should be reviewed prior to approving the ordinance.
- Registration is required rather than licensing because licensing is an approval process, while registration is not. The City of Prescott does require licensing.
- It appears the homes will be self-regulated. IF the home operators are not going to be required to re-register every year, there could be some type of form that they should be required to fill out and return to the City verifying that there have been no changes.
- Some type of oversight should be provided. Perhaps the City should look into tying this in under the police, health and safety powers.
- The City has parking regulation for front yards, but does not prohibit parking in rear yards. The homes could turn rear yards into parking areas to meet the required number of parking spaces unless this is prohibited.
- Currently, the City does not have regulations for Recovery Residences. If the ordinance would be tabled at this point, there will be no regulations should an application for a Recovery Residence be made. Ms. Maslowski noted there are no applications made at this time.
- More research is needed regarding issues discussed and whether items that other cities have provided, or are thinking of including in their requirements, could be incorporated into this ordinance.
- The ordinance could be adopted as is, with an amendment made should new information provide that the regulations could be strengthened.

At this time, the Vice Mayor invited the public to speak.

John Wenzlau, 1072 Oro Vista, wonders why the State of Arizona has regulations on group homes for the developmentally disabled, but nothing for residents recovering from addiction. He has some concerns about licensing, and wonders if there are applications already submitted. Where are the outpatient treatments in the City? He understands the FHA, and understands it is a business, not a residence. He has lived here 27 years and neighborhoods have changed; a lot of young families with young children have moved in.

There are no regulations regarding recovery residences and is concerned about possible overdoses that could happen in the neighborhood. What do you do when it is too late and after the fact?

Nick Donaldson, 1030 E. Acacia Circle, has the same concerns that Mr. Wenzlau expressed, stating there must be some enumeration for the 2 persons per room. Putting a business in a residential area is not appropriate. Is there a use tax? There must be some overseeing on a business, so a license should be required by the City.

David MacDonald, 1078 Oro Vista, resident for 30 years. He thought he was in a residential area and doesn't understand why they would consider a business in the middle of it. The home the attendees are speaking of is directly across the street from him.

Dorothy Donaldson, 1030 E. Acacia Circle, agrees these types of homes are a business and asked who will protect the rights of the other homeowners.

Dick Landis, 608 La Loma Ave, stated this is an example of an issue he has dealt with in his regulatory history. The critical issue is the awareness of these types of homes and what part the City plays and how to enforce it. He asked the Council to consider the impact this will have on the City.

Robert Taylor, Oro Vista, stated there are young families in the Cul-de-sac and to think that all these little kids will suffer from all these changes to the park. He stated he was informed today that a neighbor walking her dog eavesdropped on a counseling session that was happening at a specific home.

With no further comments, Vice Mayor Faith closed the public hearing at 7:44 PM.

The Council shared the same concerns that the Planning and Zoning Commission brought forward and are in agreement that the ordinance needs additional work.

The motion to approve the ordinance as presented failed and direction was given to the City Attorney to draft one that resembles what was approved for the City of Prescott.

B. Zoning Code Amendment Regarding Group Living Facilities

Vice Mayor Faith informed the audience that these uses are permitted by federal law, so the City cannot prevent them, but may have an ordinance to regulate them. He is of the opinion that these types of facilities are a business and do not belong in residential zoning areas.

The Planning and Zoning Commission recommended the ordinance not be adopted because they were not happy with the way it is written. They want the ability to have stronger enforcement sections for violations.

Vice Mayor Faith stated the Council has a desire to protect our small town neighborhood, but the government considers a recovering addict as a disabled person, so long as they are not using drugs or alcohol, which is how they qualify to live in Recovery Residences.

Two complaints were made to HUD regarding the Prescott ordinance as being too restrictive. The City of Prescott had a serious issue with a clustering problem. At one point, there were over 200 sober living facilities in their City, which was the reason for creating a strict ordinance. During their investigation, HUD said it had never seen such a cluster problem as Prescott's. HUD does not prosecute the violations if found after they inspect; they send to the Department of Justice for prosecution. HUD investigated and were ok with the ordinance and the restrictions in place. The regulations currently in place come from the Obama Administration.

As for the separation rule, 1200 feet would pass the FHA and HUD. Council Member Mahoney asked if a violation is found, can the operators lose their right to operate and be removed from the City; the response was no.

Council Member Blake would contest the definition of disability; self-induced should not be included. He stated he has an Airbnb rental home across from him as well as, Vice Mayor Faith, but there are rules in place to assist with the issue.

The following was discussed:

- This is a Zoning issue as these homes are operating a business in a residential area. Under the Fair Housing Act, the Government does not consider them businesses.
- Council's mission is to figure out how to regulate; it is required.
- Council Member Romack asked if inmates released from prison are included as a disable person; the response was that they are not persons with a disability.
- Council Member Raible stated group homes are licensed and inspected by the State; Recovery Residences are not. He reminded the Council and audience that the residents of these recovery residences are our children, or children of the people we know.
- Council Member Donahue is very concerned about the inspection aspect.
- Council Member Mahoney brought up Del Rey and the fraud that happened there. Current homes are using their backyard for parking, so that the City should be more stringent.
- You must be very clear of the intent of the separation requirement.
- The draft ordinance presented does have a system within it, but the Prescott Ordinance has a process with a lot more requirements including the licensing process. It contains requirements that we do not have. For example, the operator and house manager must have training. The operator and house manager must be available 24-7 and if they are unavailable, they would be in violation.

The Council could pass the ordinance with the following recommendations:

- Pass and amend as needed
- Update the current code to reflect the changes
- Add a new section in the code that is for Recovery Residences only.

Vice Mayor Faith pointed out the legal differences in the ordinance. He stated the traditional Group Homes are regulated by the State and the Recovery Residences are not. He has serious concerns with the ordinance as it is written. They are as follows:

- There is no maximum number for persons in a Recovery Residence, but there is with the Group Home Facility.
- Can the garage be used for the storing of vehicles only and not the residents' personal items for storage?
- He wants to see a minimum number of ¾ baths per residence.
- Yearly application submittal
- The 1200 ft. definition has no ending point.
- He would like enforcement language to avoid chronic offenders.
- Recertification requirements.
- Insurance requirements.

With no further discussion, direction was given to the City Attorneys to redraft the ordinance and begin the process again.

RESULT:	FAILED [0 TO 6]
NAYS:	Blake, Donahue, Faith, Mahoney, Raible, Romack
ABSENT:	Tom Schoaf

III. Executive Session

This item was not held.

A. Vote to recess the regular Council meeting and convene to Executive Session [A.R.S. § 38-431.03(A)(1), (3), and (4), requires an affirmative vote for Executive Session].

A vote was not taken to recess and Item III. 1. was held in public.

1. City Manager Search Update

Ms. Sellmeyer provided a recap of the process as follows:

- 55 applications were received and reviewed by City Staff for minimum qualifications.

- 23 applications were given to the City Manager Selection Sub-Committee. The Sub-Committee reviewed all 23 applications individually and eventually selected five applicants for interview.
- Criminal background checks (federal and applicable counties) and preliminary reference checks were completed on the final five.
- Interviews were held Via Skype on December 12 and 13, 2017.

Mr. Culbreth provided a formal process and recommended that it be followed, so that interviews can be done first week of January.

Ms. Sellmeyer stated each City Council Member will receive a binder with each candidate's full application; reference check report and background check results.

Following a brief discussion, the following was determined:

- Ms. Sellmeyer will coordinate the transportation and housing of the finalists and the City will pay for it.
- Ms. Sellmeyer will coordinate the schedule and present to Council for approval prior to contacting the finalists. Once approved, she will contact the finalists and coordinate their time for the portions of the interview process, such as scheduling a tour of the City and their writing assignment.
- A social gathering will take place at The Wigwam Resort for all the candidates, City Council, pertinent Staff, and the Chairs of the Boards and Commissions to meet. This meeting will be posted, as a quorum will be present, and a possible Executive Session may be called to discuss the applicants.
- Ms. Sellmeyer will provide City Council with a list of interview questions.

With no further discussion, Council Member Blake **moved, seconded** by Council Member Mahoney, to set up interviews for Ian McGaughey, Bill Stevens, and Jennifer Dyckes; **unanimous passage**.

VI. Adjournment

With no further discussion, Council Member Romack **moved, seconded** by Council Member Mahoney to adjourn the Special Meeting; **unanimous passage**. The special meeting adjourned at 9:23 PM.

APPROVED:

CITY OF LITCHFIELD PARK

Thomas L. Schoaf, Chair

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CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the special meeting of the City Council of the City of Litchfield Park held on **Wednesday, December 13, 2017**.

I further certify that the meeting was duly called and held and that a quorum was present.

Terri Roth, CMC, City Clerk