

Draft Minutes

TUSAYAN TOWN COUNCIL SPECIAL MEETING

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

December 14, 2011 @ 6:00 P.M.

Best Western Squire Inn, Zuni Conference Room

74 State Route 64, Tusayan Arizona

TOWN COUNCIL SPECIAL MEETING & WORKSHOP MINUTES

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:00 pm and the Pledge of Allegiance was recited.

2. ROLL CALL

Upon roll call, the following were present:

MAYOR BRYAN
VICE MAYOR MANIACI

COUNCILMEMBER MONTOYA
COUNCILMEMBER FITZGERALD

Councilmember Rueter was absent

Also present:

Town Manager Ochoa

Town Clerk Sutton

Town Contract Planner Richard Turner

3. CALL TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA

None

4. CEREMONIAL AND INFORMATIONAL MATTERS

Mayor Bryan announced that there would be a Town Hall in Tusayan on Saturday, January 7; put on by Congressman Gosar.

5. CONSENT AGENDA

Consideration and possible approval of Administrative/Treasurer's Report

Approval of the Payment of Bills

Approval of Minutes of December 7, 2011

Mayor Greg Bryan said that he wants to have more time with the payment of the bill to Willdan and Associates, if it was the Council's desire to direct Town Manager Ochoa to have Willdan provide a more detailed accounting of their claimed time, so that possible duplication of services can be explained. Discussion followed.

Councilmember Maniaci motioned to approve the minutes and all bills with the exception of Willdan until the bill could be clarified. Councilmember Montoya seconded. All were in favor.

6. COMMITTEE REPORTS

None

7. ACTION ITEMS

None

8. DISCUSSION ITEMS

None

9. WORKSHOP

Topic: Review of Proposed Changes to the Town Zoning Ordinances

Town Manager Enrique Ochoa opened the discussion by saying that this has been an ongoing process, and that Town Clerk Sutton and Town Attorney Sims have worked on some of the changes. He added that most of the changes were minor in nature, and Mr. Richard Turner has completed work on the zoning ordinance, with help from Administrative Assistant Debbie Garver. Manager Ochoa asked Richard Turner to report to Council.

Richard Turner reported the following:

Most of the changes to the laws were changing the document to make it applicable to the Town of Tusayan instead of Coconino County. There was an existing Town Code adopted, which was Coconino County's Code, and now draft changes have been made in wording throughout the document to make it applicable for Tusayan. It's an extensive document and a lot of work.

Sections 1-6

In the title paragraph, the date of the Town's initial adoption of the Zoning Ordinance will need to be added. Richard Turner asked Town Clerk Sutton to provide that date.

SECTION 7 – Enforcement

The enforcement section was recently approved by the Town Council by separate action. Only a few minor changes to that version are proposed. These changes are a corrected statutory reference, a corrected zoning ordinance reference and elimination of a duplicate paragraph. This section has also been re-formatted.

SECTION 8 -- Definitions

A definition for the Tusayan Area Plan has been added and the definition of the Coconino County Comprehensive Plan has been deleted. A definition for Hearing Officer has also been added. The definition of restaurant has been amended to add language that allows adjacent outdoor dining.

There was extensive discussion regarding mobile homes, modular homes, recreational vehicles, trailers, RV parks, etc. Council directed Town Manager Ochoa to “flag” this for further discussion.

SECTION 9 – General, Agricultural Residential and Rural Residential Zones

The language in the purpose paragraph of Section 9 has been modified to state that the section will preserve or maintain a rural lifestyle instead of also encouraging and promoting it. This is more in keeping with a town environment. Consistent with this approach, commercial agricultural uses on 5 acres or more are proposed to require a Conditional Use Permit (CUP), as are cattle and sheep ranch operations. Public parks and recreational facilities are proposed to be uses by right and not require approval of a CUP. The section on uses adjacent to an Interstate Highway interchange has been deleted. Language about access road construction has been revised to require construction to an all weather standard in lieu of reference to a County ordinance. This particular revision is repeated in subsequent sections of the ordinance

After discussion, it was decided that following will be flagged for action and revisiting at a future meeting:

Will delete 9.2

9.3A4 – Will be re-examined

9.3B – Clarification needed

9.7A – Clarification needed

SECTION 10 -- Residential

A change allowing public parks and recreational facilities as a permitted use instead of requiring a CUP is repeated here and is also found in subsequent sections. On lots larger than one acre, the total area that may be used for outdoor storage of inoperable vehicles, secondhand building materials, appliances, furniture, etc. is proposed to be reduced from 2,000 square feet to 1,000 square feet.

Councilmember Fitzgerald questioned 10-7C-1 – Subdivision Ordinance. Mr. Turner said that we have adopted the County's, but that this will be a future project to customize it to Tusayan.

Councilmember Fitzgerald said that on the last page; there is no section 20.2.7. Mr. Turner said it should be 20.3.7, and that it will be changed.

SECTION 11 -- Commercial

Two versions of Section 11, the commercial regulations, have been provided for review. The main difference between the two versions is the categorization of land uses. Uses are prohibited, allowed by right or allowed with the approval of a CUP in one or more of three different commercial zoning districts. In the first version of Section 11, fewer commercial uses are proposed to require approval of a CUP; while in the second, the uses that require CUP approval remains about the same. The reasoning behind changing several of the uses from requiring a CUP to uses allowed by right in the first version is as follows:

1. All commercial uses are subject to site plan review and approval by the Planning and Zoning Commission by virtue of the fact that the entire town is within the Design Review Overlay Zone. Review of certain commercial uses using the CUP process is not necessary or appropriate.
2. Certain commercial uses are of a permanent nature and should not be subject to a time limit and expiration.
3. Reducing the number of uses subject to CUP approval is a more customer friendly approach to development review, reducing the time it will take for approval of these commercial land uses.

There are other changes in the categorization of some of the commercial uses that should be noted. In the first version of Section 11, some of the more intense uses that have the potential to adversely impact adjacent properties by the nature of their operations have been removed from the CG-10,000 Zoning District, but are still allowed in the CH 10,000 Zoning District. These are wholesale bakeries and ceramic studios with outdoor kilns. A solid waste haulers yard would be allowed with a CUP in the CH- 10,000 Zoning District, but not permitted in the other commercial zones.

Some uses are proposed to be added in zoning districts where they are now prohibited. Dry cleaning establishments are proposed to be added as a use by right in the CN-2/A Zoning District. Churches, clubs and lodges are also proposed to be allowed by right in the CN-2/A Zoning District. Day care centers and preschools have been dropped from the CH-10,000 Zoning District, but are proposed to be a permitted use in the CN-2/A Zone. A restaurant with outdoor dining has been added to the list of commercial uses and is shown to be subject to CUP approval.

A market analysis has been dropped from the list of requirements for establishing a CN-2/A Zoning District. Staff has found that this type of report is often not very accurate. In addition, staff does not have the resources to authenticate the assumptions and conclusions found in a market analysis.

Councilmember Fitzgerald said that in a number of references, the 50 foot building height was written, although he was under the assumption it was 40 feet. Initially, the discussion said that the 50 feet was in error and it should be 40 feet throughout the document. Later in the meeting, public member Clarinda Vail pointed out that because of the pitch of roofs that are needed because of snow-load building requirements, that the 40 foot max would no be possible with some buildings. This will be revisited by Council on a future date.

Councilmember Fitzgerald pointed out that 11.3A says 12 months. And that 14.1F says 6 months, and that it should be consistent.

Councilmember Fitzgerald initiated discussion regarding where post offices can and can't be located. There was nothing that was flagged for further discussion, however.

SECTION 12 -- Industrial

Councilmember Fitzgerald questioned under 12.1 “Agriculture.....”. Mr. Turner said it could be changed from a “P” to a dash (dash means not allowed). Further discussion will be done.

SECTION 13 – Special Purpose

Language is proposed to be added that would allow for a waiver of the requirement to submit a report from a registered sanitary engineer if a commitment for sewer service could be obtained from the sanitary district. In Section 13.2-3, the responsibility for fire hydrant specifications is proposed to be changed from the Planning Commission to the Tusayan Fire Department. In Section 13.3-3, the minimum acreage for a PC Zone will be changed from 25 acres to 10 acres which is consistent with a recent text amendment approved by the Town Council. In Section 13.4-2, it is proposed that the construction of public buildings and grounds be allowed as a use by right instead of a use requiring a CUP.

Changes to Section 13.6, the Floodplain Management Overlay Zone regulations include the following:

1. The statutory authorization paragraph should be revised to include a reference to the state law that relates to cities and towns and floodplains.
2. The Town Manager is proposed to be the Floodplain Administrator.
3. The Town Council is proposed to be the Floodplain Board.

13.1-11 and 13.3-2 –After discussion, it was agreed that the Fire Department should have input.

There was discussion initiated by Councilmember Fitzgerald regarding “Flood Plains”, and “Satellite Dishes”. No changes were proposed from the existing document, and it was brought out that satellite dishes were under Federal Communications jurisdiction.

Councilmember Fitzgerald questioned “Medical Marijuana” and there was discussion about how much authority the Town had in passing laws more stringent than State laws. It was asked to have Town Attorney Sims give an answer back to Council.

Councilmember Fitzgerald questioned the need for “Racetracks”. The matter will be revisited.

SECTION 14 – Special Uses and Conditions

Temporary Uses, the maximum number of times an event can be held in a calendar year is proposed to be increased from 3 to 5 times. In Section 14.5, references to features and facilities that make little sense in the context of Tusayan are proposed to be omitted.

Questions and discussion came up regarding the Native American displays (Jewelry under “G”). Public Member Clarinda said that they have a 10 year CUP already in existence for

their displays in Tusayan.

Mr. Turner said that there deletions for highways like 180 and 89A, since they were not in the Tusayan Town limits, but that 64 was left in.

14.1.1 – There was discussion about how much the “bond” should be. It will be flagged for later discussion.

SECTION 15 – Parking

“Outdoor dining areas” is proposed to be added to the area used in the calculation of the required number of parking spaces.

Mr. Turner that there is a new parking lot sketch that should be easier to understand.

Under 15.1A3 – Mr. Turner said to change where it says “Director of Community Development”, to make it consistent with the rest of the document, and say “Town Manager or designee”.

SECTION 16 – Signs

There is a replacement of the sketch drawings with photographs to assist Council

SECTION 17 – Outdoor Lighting

This is the section dealing with outdoor lighting. With a few important exceptions, this is the same regulation that was reviewed by the Planning and Zoning Commission on March 24th of this year. On March 24th, the Planning and Zoning Commission acted to continue the consideration of the regulation for more information on “airport operations and security”. Since that time, the regulation has been revised to reflect the comments and suggestions of Mr. Mike Halpin, Airport Manager. Specifically, the definition of airport lighting and the section dealing with the exemption for airport lighting systems have been revised. Other changes that have been suggested by the Naval Observatory have also been included. One of these updates provides that lighting used in the maintenance/repair of aircraft is classified as Class 1 lighting. Lighting in this class must be fully shielded, but there is no limit on the intensity of the lighting.

SECTION 18 -- Landscaping

Minor changes so no discussion

SECTION 19 – Nonconforming Situations

In Section 19.6, a provision allowing the replacement of a non-conforming mobile home on an individual parcel with another mobile home, with the approval of a CUP, is proposed to be dropped from the Ordinance. According to the definition of a mobile home in Chapter 8 of the Zoning Ordinance, all mobile homes were built before 1976. Housing units similar

in appearance built after 1976 are classified as manufactured homes. The Town may not want to support the continuation of the use of mobile homes that are 35 years old and older. Section 19.7.D is proposed to be eliminated since it is based on statutory authority granted to Counties. Another proposed change would eliminate the ability to exchange one non-conforming use for another with the approval of a CUP. This provision is not consistent with the idea that reducing the overall number of non-conforming uses in a community is generally a good approach to community development.

19.6C – Proposed change will say, “Individual nonconforming mobile homes on discrete parcels may not be replaced.”

There was a lot of discussion about how old the modular and mobile homes which should be allowed. This is flagged for future discussion.

Councilmember Fitzgerald questioned 19.8 and the referred to 25 percent of appraised value.....The matter will be flagged for followup discussion.

SECTION 20 – Administration

The language in Section 20.4-11, the protest petition provisions that apply in the case of rezoning, is proposed to be changed to reflect the requirements of state law as it relates to cities and towns. New Sections 20.5.C, 20.5.D, 20.5.E and 20.5.F have been added. These new sections pertain to public notice requirements and are also based on state law for cities and towns. The last sentence in Section 20.7-6 refers to a statute for Counties and is proposed to be eliminated. To be consistent with new language and procedures in the Enforcement Section, Section 7, Section 20.7-10 is proposed to be changed to provide for an administrative review by the Town Council of a decision by the Hearing Officer on a Variance.

Alternative language to parts of Section 20.4, Amendments, is available for consideration. This is a separate attachment which is labeled “ZO Sec 20 No TC Hearing”. State law allows the Town Council to adopt the recommendation of the Planning and Zoning Commission without holding its own public hearing, provided the Planning and Zoning Commission held a duly noticed public hearing on the item. The Town Council would only have to hold a public hearing if there was an objection or a request for a public hearing (or if the Planning and Zoning Commission has not held a public hearing).

A second option to Section 20.3, Conditional Uses, is also offered. This is the attachment labeled “ZO Sec 20 TC CUP Approval”. This alternative places the authority for approval of a CUP with the Town Council. As the Ordinance is currently written, the Planning and Zoning Commission has the authority to approve CUPs. The Council would only hear a CUP on appeal. In the alternative proposal, the Commission would hear a CUP and make a recommendation to the Town Council.

Mayor Bryan asked about 20.7-6; he asked why the sentence was scratched out. There was discussion and the matter will be flagged and revisited on a future date.

Then there was discussion about changes being made to this code, and whether all changes would require a public hearing. Mr. Turner said that the answer is “no” unless a public hearing was requested by anyone or any Councilmember, then a public hearing would be required.

SECTION 21—Tusayan Area Plan

No Discussion; just minor changes

IN GENERAL

The changes that are proposed to the Zoning Ordinance can be grouped into 4 categories. The first category would include the simple changes that would convert the existing code, which is essentially the Coconino County Zoning Ordinance, into the Town of Tusayan’s Zoning Ordinance. These revisions exchange County terms with Town terms (e.g. Town Council instead of Board of Supervisors).

In the second category would be the few, more substantial changes that are necessary due to the difference in the way counties and municipalities are dealt with by the state statutes. Most of these changes are found in Section 20 of the Zoning Ordinance. Staff would recommend that the Council consider these changes and direct staff to move forward with them.

In the third category are the optional changes, also found in Section 20 of the Zoning Ordinance and as separate attachments in the package of changes sent with a previous e-mail. These deal with the approval of CUPs and the need for a public hearing by the Council on matters heard and recommend by the Planning and Zoning Commission. The council will want to consider these options and choose either or both. Staff believes there are benefits to the approval of both options.

Changes in the last category are based on staff’s view of what it perceives to be in the best interest of the Town.

Bill F suggested reference numbers on top of pages; or organizing to make the sections of the document easier to find.

Councilmember Maniaci said that she would like to have more time to review the document and prepare further questions. Councilmember Fitzgerald also said he would like more time to review.

Town Manager Ochoa said that he can incorporate in red some of the comments, and if Council had others, to get them to Richard or him and some possible changes can be made

for review prior to the next time Council meets regarding the zoning code.

10. TOWN MANAGER'S AND STAFF REPORTS

None given

11. COUNCIL MEMBERS' REPORTS

None given

13. MAYOR'S REPORT

None given

14. SET AGENDA ITEMS FOR NEXT MEETING

None additional, but Town Clerk Sutton added that the "call for the May election" needs to be on the agenda.

15. MOTION TO ADJOURN

Councilmember Montoya motioned that the meeting be adjourned. Councilmember Maniaci seconded. The Mayor called the meeting adjourned at 8:34 p.m.