

**TOWN OF YUCCA VALLEY  
PLANNING COMMISSION MEETING MINUTES**

**AUGUST 25, 2009**

Chair Goodpaster called the regular meeting of the Yucca Valley Planning Commission to order at 7:00 p.m.

Commissioners present: Chair Shannon Goodpaster, Commissioners Robert Lombardo, Dennis McKoy, Dawn Rowe and Margo Sturges

Chairman Goodpaster led the Pledge of Allegiance.

**APPROVAL OF AGENDA:**

Mr. McKoy moved that the Agenda be approved, which motion was seconded by Mr. Lombardo and passed unanimously by voice vote.

**PUBLIC COMMENTS: None**

**PRESENTATIONS:**

A presentation to the Commission by the Doug Haubert, Town Attorney, regarding The Brown Act (CA Government Code Section 54950). Calling for public comments and approval of the Agenda, as the Chair just did, is part of the Brown Act. You are complying with the Brown Act by holding an open and public meeting where members of the public are allowed to participate in a meaningful way before any final decisions are made.

He referenced a hand out that was made available to the Commissioners, a copy of which is preserved in the meeting file. He presented an overview of 3 important points as follows:

1. The Brown Act is not a substantive law, it is a procedural law. It does not affect the final decision made but rather requires the decision making body to follow steps prior to the decision. It's the rules of the game, not the game itself.
2. The Brown Act has an express provision for a "right to cure" any violations or mistakes that may occur. If a discussion is held and a decision made regarding an item not on the agenda, the item can be placed on a subsequent agenda and "cured".
3. The Brown Act is a series of minimum requirements but does not constitute the most a body can do to comply with transparency and public participation in the decision making process. There is nothing that says you cannot give the public more notice of an upcoming meeting than is required by the Act.

The Act applies to legislative bodies which pronounce and make resolutions, ordinances and enact laws. It also applies to bodies created by legislative bodies like this Planning Commission. It does not apply to advisory committees or membership of 2 or more Commissioners in outside civic or community organizations.

A Meeting is anytime a majority of a group of a body are together or are discussing in sequence an item that is within the subject matter jurisdiction of the body. If a majority of the Commission gets together to talk about football or economics in China or any other matter unrelated to the subject matter jurisdiction of the Planning Commission it is not a meeting under the Act. Without a majority there cannot be meeting. You cannot violate the Act if only 2 Commissioners speak to each other.

The Act focuses on making decisions and coming to consensus on a particular topic. Action is taken when a collective decision, commitment or actual vote of the members of the body is reached. Case law also says the decision making process is also subject to the Act. Testimony being taken on a item to appear on a subsequent agenda item should be agendaized and public comments taken even though no vote is taken. If the final vote is the result of 4 or 5 workshops, the recommendation is that all of the workshops be noticed, agendaized and open to the public. Participating in the making of a decision is making a decision for the purposes of the Brown Act.

All meetings are open to the public whether the public decides to attend or not. All Agendas must be posted in a public place, as all of the Agendas for the Commission are. Different types of meetings require different levels of notice. Emergency meetings require the least amount of notice and are allowed by the Act. Special meetings require 24 hours notice. Regular meetings require 72 hours notice. Regular meetings must be held at the time and place set by ordinance, resolution or bylaws and be held within the boundaries of the jurisdiction. The Town must tell the public when it regularly meets and provide a copy of all agendas as requested. The Notice of the meeting must include a description of the items on the agenda. It is not meaningful unless the public knows what is on the agenda.

Other writings covered by the Act include material presented to the Commission, before or during the meeting. These materials are to be made available to the public if requested. Some decisions are allowed by the Act to be made in Closed Session of the body like real estate and personnel decisions. The Agenda description must describe the nature of the decision and subject matter before the body.

Calling for public comments for items not on the agenda is important so the public can have input before a decision is reached. The opportunity for meaningful public participation must be given. But public comment is not a free for all and there are rules of decorum. The Commission, through the Chair, has the ability to regulate within the context of the meeting appropriate behavior. It is important for people to know that constant interruptions might interfere with the decision making process. Interference with that process is prohibited and there is authority to remove people if they are disruptive. Regarding how long people are allowed to speak, the Chair may call for a show of hands regarding a topic and if the information becomes repetitive the Chair has the right to cut off public comment unless something new is being added. You are not denying someone meaningful participation if they are just going to say the same thing someone else said.

As mentioned earlier, there is a right to cure if there is a violation of the Act and it is not uncommon for a legislative body to go back and redo a decision in order to cure any perceived violation. Even when there is no violation the body can go back and cure it to make sure it is clear the decision was made openly in public.

It is almost impossible to criminally violate the Brown Act. The body must intentionally and purposefully deny people the right to participate by making the decision out of public sight. He is not aware of any criminal prosecution for violation of the act in the state. There have been...

Mr. Goodpaster asked the audience for quiet so the presentation could be heard by the Commissioners.

Mr. Haubert added that he had just discussed the rules of decorum and Mr. Goodpaster's request is totally acceptable and appropriate. He asked the people in the back to be as quiet as possible because it is extremely important for the people at the meeting to be able to hear what is said.

Regarding enforcement of the Act, it is common to have civil actions for violating the Brown Act. A civil act is brought by a member of the public who believes the Brown Act was violated. People may try to undo a decision by bringing a civil action, which is one of the remedies in the Act. These cases are most often brought against the Town Council.

He requested questions from the Commission, if any.

Ms. Sturges questioned the constitutional protections of expressions of support or opposition to matters before the body even if rude or inconsiderate. Mr. Haubert stated just because something is constitutionally protected doesn't mean it is an absolute right. The First Amendment does not protect your right to scream "fire" in a crowded theatre. When speech disrupts the meeting, the body has the ability to prevent it. Anything disruptive that prevents or impedes making a decision or continuing on with business is not protected constitutionally from an absolute point of view. The public has the right to express a viewpoint but once it becomes disruptive or impedes the flow of the meeting the Commission has the ability to remove that person so the meeting can proceed. Clapping that goes on for such a long time that it drags the meeting on does not add anything to the decision making process and at that point becomes disruptive. A raising of the hands of the audience in agreement with the speaker works well at the Town Council meeting as a visual symbol.

## **PUBLIC HEARINGS:**

### **1. GENERAL PLAN AMENDMENT 01-09, UPDATING THE HOUSING ELEMENT OF THE TOWN OF YUCCA VALLEY GENERAL PLAN FOR THE 2006-2014 PLANNING PERIOD: AND ENVIRONMENTAL ASSESSMENT EA 01-09**

With reference to the complete printed staff report contained in the meeting packet, copies of which are preserved in the project and meeting files, Contract Planner Nicole

Criste presented the project discussion to the meeting. The Draft Housing Element was presented to the Commission in October of 2008 prior to submittal to the State. The Housing Element is one of the seven mandatory elements of the General Plan and is the element most regulated by the State. The Housing Element is the only element that requires State approval.

The process is that an update is prepared during a specified time period during which we analyze the housing needs for that planning period. The current planning period is from 2006 to 2014. During that time we are required to evaluate the currently adopted element to determine whether the policies and programs have been effective. We are also required to analyze demographic information and the mix of population and income levels in Town, and determine areas where we have special needs.

In our Housing Element the senior population is substantive and their needs have been addressed specifically. That analysis determines the necessary changes to policies and programs to meet the needs of the 2006 to 2014 planning period. The Regional Housing Needs assessment, which is prepared by the State and is our allocation of housing for the planning period, is considerably higher this cycle than for the last cycle. That is true throughout the Inland Empire and the Lower Desert. The method of calculation this cycle was much different than in the past and was calculated during a period when there was a tremendous amount of growth in California.

The Housing Element is to be designed for the Town to facilitate and not impede development of housing but not for the Town to develop or build all of that housing. Part of the analysis is the elimination of constraints to the provision of housing and that analysis has been performed.

Since last October the Element was submitted to the Dept. of Housing & Community Development, went through 2 reviews, and the element was determined to be consistent with State law in June of 2009, and to address all of the provisions required by state law. The Dept. gave the Town a conditional letter of approval. The final letter of approval will be issued to the Town after the Dept. of Housing receives the element as adopted by the Town Council.

CEQA review was also completed for the project and the Initial Study is included in the meeting packet. That review determined the Housing Element will not have a significant impact and a Negative Declaration is proposed. The policies and programs of the Housing Element were compared to the balance of the General Plan to assure consistency. Consistency exists and the Findings for approval can be made. Staff recommends that the Commission recommend approval of the Environmental Assessment and the Housing Element to the Town Council.

Ms. Sturges stated she communicated via email with Ms. Criste regarding where the funding for housing would come from and SB2 for Emergency Shelters. She requested that Ms Criste address these issues after public comment.

Mr. McKoy observed that the income distribution indicates 43% of the population is above moderate, 19% is moderate, and 38% is below moderate income levels. There appears to be some balance within the Town.

Ms. Rowe asked if the 2010 census vary dramatically, can the element be adjusted prior to 2014. Ms. Criste replied the Regional Housing Needs Assessment is only prepared on Housing Element cycles. Our allocation will not change until the next cycle.

Mr. Goodpaster opened the hearing to public comments stating May Thornton of Joshua Tree requested in writing that her position in favor of the item be registered.

Wayne Hamilton of 29 Palms, speaking on behalf of the Morongo Basin ARCH, stated there is a need in the homeless population and we need to find a place where resources can be provided, whether in Town or in cooperation with the County or other cities.

Mr. Goodpaster closed the hearing to public comments.

Ms. Criste commented, in response to Ms. Sturges, that SB2 addresses the need to provide homeless shelters in all communities, transitional and supportive housing. It is a new law and it requires that the Town allow homeless shelters with no significant regulatory impediments. It has been historically common for a community to require a Conditional User Permit for homeless shelters in any zone. SB2 prohibits that. They must be permitted by right. The new Element contains a program which requires that we change the Development Code to allow homeless shelters in either the quasi-public or industrial zone. Only the processing of the site development permit will be required. The SB2 requirements are very much like the requirements for affordable housing. The Town must facilitate the potential for a shelter to be located in Town but we are not required to build one. Changing the Development Code will meet the requirements of SB2. We have over 500 acres of vacant Industrial land so there would be room for a shelter. It is more likely to be a regional shelter than a Town specific shelter. Many communities are looking at the regional approach to pool resources for those kinds of facilities and services.

Ms. Rowe moved that the Planning Commission recommend to the Town Council adoption of Environmental Assessment 01-09 and recommend to the Town Council adoption of General Plan Amendment 01-09, updating the Housing Element for the 2006-2014 planning period. The motion was seconded by Mr. McKoy and passed unanimously by voice vote.

Mr. Goodpaster reopened the meeting to Mr. Haubert who requested that public comments be allowed on his previous presentation.

Ramon Mendoza of Yucca Valley stated he likes the idea that these meetings are for the people and we are here to participate in the process. The constitution is the law regardless of how anyone feels. The process has rules. We don't make law we apply it in the jurisdiction through the General Plan and ordinances. The only time meetings are disrupted is when it is not clear that the Commission is here to serve the public and the public has a right to speak.

Ron Cordes of Yucca Valley stated that the comments regarding criminal prosecution being limited was probably not appropriate in a presentation because the Brown Act contains them. It might be difficult to prosecute but should not have been in the presentation.

Mr. Goodpaster closed the meeting to public comments on the Brown Act presentation.

## **2. VARIANCE, V 01-09 SCHMIDT**

A request to encroach eleven (11) feet into the required twenty-five (25) foot street side yard setback for the construction of a swimming pool located at 56889 Golden Bee Drive and identified as Assessors Parcel Number APN 585-355-09.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Associate Planner Robert Kirschmann presented the project discussion to the meeting. Utilizing a PowerPoint presentation, copies of which are preserved in the meeting and project files, he identified the location on the site of the proposed pool indicating there is no other location on the site for the pool.

The Tract Map affecting this parcel was approved by the County prior to incorporation of the Town. On the map the front setbacks were set at fifty (50) feet and the street side yard setbacks were set at twenty-five (25) feet. The property in question is located on the southwestern corner of Sage Ave and Golden Bee Dr. Therefore, the property has a fifty (50) foot setback along Golden Bee Drive and a twenty-five (25) setback along Sage. These setbacks account for 49% of the lot. Development Code Section 84.0325, Residential Single Family Residential Land Use District only requires a twenty-five (25) foot front setback (twenty-five feet less than is required by the tract map), and since Sage is a Collector the street side set back would be twenty-five (25) feet as well.

The proposed pool area was graded during construction of the residence, is flat and will be screened from view by the block wall along Sage Ave. and it is elevated above the street. No written citizen responses have been received, however one resident voiced support of the variance to staff at the Community Development Dept. offices.

Staff recommends that the Planning Commission approves Variance, V 01-09 based upon the findings contained within the staff report.

Mr. Lombardo requested and received confirmation that the pool will be screened by the block wall. He questioned the height of the gate asking if it would become a block wall. Mr. Kirschmann replied CA Building Code includes fencing requirements for pools,

Ms. Sturges asked if the variance would be harder to support if the lot were in the middle of a block. Mr. Kirschmann replied it would be harder to support because this is a corner lot it has unique circumstances.

Mr. Goodpaster commented 49% of the lot being setbacks is a real hindrance to the lot. He then opened the hearing to public comments.

Applicant Matthew Schmidt stated they plan to live in Yucca Valley for a long time and it will be a well maintained pool. Kathleen Schmidt stated they lived on the 29 Palms Marine Corps base for a year before they bought this house. It is their first non-deployable duty station in 20 years so moving off-base was not taken lightly. They have confidence in their contractor who has assured them that the gates will meet codes for alarms and size.

Mr. Goodpaster closed the hearing to public comments.

Mr. Lombardo moved that the Planning Commission approves Variance, V 01-09 based upon the findings contained within the staff report. The motion was seconded by Ms. Sturges and passed unanimously by voice vote.

### **3. MEDICAL MARIJUANA DISPENSARIES; RECOMMENDATION TO TOWN COUNCIL OF AN ORDINANCE**

A request that the Planning Commission discuss and forward to the Town Council an ordinance prohibiting the establishment of medical marijuana dispensaries within the Town boundaries.

With reference to the complete printed staff report provided in the meeting packets and preserved in the project and meeting files, Associate Planner Robert Kirschmann presented the project discussion to the meeting stating that the Commission considered this matter at the meeting of March 3, 2009 and recommended that an ordinance be prepared to prohibit the establishment of medical marijuana dispensaries within the Town of Yucca Valley.

California Health and Safety Code Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996" or "Act") legalized the use of medical marijuana for medical purposes. California Senate Bill 420 provided some clarification of Proposition 215 and further advanced certain protections for patients, their primary caregivers and the establishments that dispense medical marijuana to patients with recommendations. Medical marijuana dispensaries have been established in several locations in California, and, as a consequence, some local agencies have reported increases in illegal drug use, illegal drug sales, robbery of persons leaving dispensaries, loitering near dispensaries, forging or falsely obtaining identification cards to qualify for medical marijuana, and other criminal activity.

The Commissioners have before them a page containing proposed changes to the Ordinance which adds more detail as follows:

**WHEREAS**, there have been 19 calls for service to the Sheriff's Department for California Alternative Medical Solutions located at 58967 Business Center Drive since February 2008; and

**WHEREAS**, there have been 9 alarm calls, with 7 of the 9 being false alarm calls and 2 resulting in reports generated; and

**WHEREAS**, there have been reports of obscene phone calls, terrorist threats and vandalism, all generating reports through the Sheriff's Department; and

**WHEREAS**, there were two calls of reported disturbances that were resolved without the need for Sheriff's reports; and

Included in the packet are 3 attachments:

Attachment 1 to this Staff Report is a white paper on Medical Marijuana and Associated Issues, presented to the California Chiefs of Police Association, for the period of January to March 2009.

Attachment 2 to this Staff Report is a White Paper prepared by the Riverside County District Attorney's Office on Medical Marijuana in September 2006.

Attachment 3 to this Staff Report is a white paper on Medical Marijuana and Associated Issues, presented to the California Chiefs of Police Association, for the period of October through December 2008.

The Ordinance presented to you this evening establishes a prohibition on the establishment or use of medical marijuana dispensaries within the Town of Yucca Valley. There is a provision in the ordinance that allows the existing facility to remain for a year. At that time the business would either have to close or apply for an extension.

Staff recommends that the Planning Commission recommends to the Town Council adoption of an Ordinance establishing a prohibition of the establishment or use of medical marijuana dispensaries in all zones within the Town of Yucca Valley.

Ms. Sturges as where we stand with the Federal and State law.

Town Attorney Doug Haubert replied the policy in CA, pursuant to Prop 215, is that no one will be prosecuted for possession, cultivation, distribution of marijuana provided certain requirements are met. Essentially it is a defense to those previous crimes before the adoption of Prop 215. However, Federal Law has not changed and completely, without exception, prohibits possession, distribution, transportation and cultivation of marijuana. There are no exceptions for anything. The court cases have concluded that state laws do not preclude federal law and federal law is applicable throughout all states regardless of CA law. So while you cannot be prosecuted under state law, you still can and will be under federal law. The courts have not yet dealt with the inconsistency and conflict between state and federal law.

Mr. Goodpaster opened the hearing to public comments stating many people wish to speak this evening and a 3 minute timer will be in use. He reminded the audience that clapping disrupts the flow of the hearing and asked that supporters of the speaker or a comment raise their hands as a demonstration of agreement.

The following people spoke in opposition to the ban on medical marijuana dispensaries for medical necessity or transportation reasons: Patricia Martz of Yucca Valley, Patrice Eldridge of Yucca Valley, Lana Bergman of Yucca Mesa, NaLee Mock of Yucca Valley, Gilbert Quinn of Joshua Tree, Theresa Bulone of Yucca Valley, Shirley Vickers of Joshua Tree, Terri Millen of Morongo Valley, Lindsey Convery of Joshua Tree, Kenneth Berman of Yucca Valley, Amanda Villalobos of Yucca Mesa, Lee Morgan of Landers, Anthony Dacosta of Joshua Tree, Kathleen Seeley of Yucca Valley, Kim Bagwell of Yucca Valley, Stephen Shuller of Yucca Valley, Bob Race of 29 Palms, Andrew Doty of Yucca Valley, Ricky Reyes of Yucca Valley

The following people spoke in opposition to the ban on medical marijuana dispensaries on economic, legal & safety grounds: Rick Bagwell of Yucca Valley, D. J. Ross of Yucca Valley and proprietor of the existing dispensary, Philip Morris of Yucca Valley, Thomas

Bulone of Yucca Valley, Murray Hopkins of Yucca Valley, Scott Logan of Yucca Valley, Judy Van-Ruggles of Landers, Alan Bergman of Yucca Valley, Ramon Mendoza of Yucca Valley, Mary Thornton of Joshua Tree, Bobbi St. Lazare of Morongo Valley, Diana DeMartino of Yucca Valley, Fritz Koenig of Yucca Valley,

The following people spoke in opposition to the ban of medical marijuana dispensaries due to the financial support given to community organizations, including the Humane Society no-kill animal shelter, by the current dispensary: Michelle Willey of Joshua Tree who stated she is the manager of the Morongo Basin Humane Society shelter, Alanna Ponder of Yucca Valley, Aaron Samples of Yucca Valley, Lesley Mahany of Yucca Valley,

The following people requested in writing that their opposition to a ban of medical marijuana dispensaries be registered: Scott Lane of Joshua Tree, John Rivera Of Joshua Tree, Mike Andrew of Yucca Valley, James Burks of Joshua Tree, Kim Minyard of Yucca Valley, Corey Dacosta of Joshua Tree, Christian Garin of Yucca Valley, Chris, Scal of Yucca Valley, Laura Hughes of Yucca Valley, Sandra Hartness of Yucca Valley, Daniel Woods of Yucca Valley, April Ritchie of Joshua Tree, Kristi Fuson of Yucca Valley, Kathy Mosmen of Yucca Valley, Joseph Greabie of Needles, Debra Rodriguez of Pioneertown, Robert Radice of Yucca Valley, Elizabeth Loy of Joshua Tree, Blake Glaze of Yucca Valley, Neil Thompson of Yucca Valley, Nancy Radice of Yucca Valley, Steven Jones of Yucca Valley, Zena McElvain-Bristos of 29 Palms, Sara Logan of Joshua Tree, Brandon Logan of Joshua Tree, Mary Mitz of Joshua Tree, Vicki Sharway of Yucca Valley, Arne Hill of Joshua Tree, Danielle Marte of 29 Palms, Adrian French of 29 Palms, Robert Mills of Joshua Tree, Chris Mills of Needles, Christine Ward of Simi Valley, Crystal Wilder of Needles, Richard Racobs of Yucca Valley, Michelle Hoskinds of Joshua Tree, Amanda Hoskinds of Joshua Tree, Jill Giegerich of Joshua Tree, Lana Bergman of Yucca Valley, B. Dempsey of Yucca Valley, Monica Bauer of Joshua Tree, Dru Coiner of Yucca Valley and Sheryl Fraser of Yucca Valley.

The following people spoke in support of the ban of medical marijuana dispensaries for legal and community and child safety reasons: Patricia Bristow of Joshua Tree who stated she owns the ballet center next door to the dispensary, William Green of Yucca Valley, Lori Green of Yucca valley and Margo Jones of Yucca Valley.

The following people spoke in favor of the ban of medical marijuana dispensaries based on zoning or land uses issues: Patrick Bristow speaking for the Desert Ballet Centre and Ron Cordes of Yucca Valley.

The following people requested in writing that their position in favor of a ban of medical marijuana dispensaries be registered: Daniel Cordes of Yucca Valley, Mary Cordes of Yucca Valley, Joshua Cordes of Yucca Valley, Victoria Cordes of Yucca Valley, Rebekah Cordes of Yucca Valley, Chris Green of Yucca Valley, Maria Borghese of Yucca Valley, Neil Jones of Yucca Valley, Iris Jones of Yucca Valley, Lynne Reynolds of Yucca Valley, David Wilson of Morongo Valley and Jodi Wilson of Morongo Valley.

There being no others wishing to speak, Mr. Goodpaster closed the hearing to public comments.

Mr. Goodpaster recessed the meeting at 10:00 pm and reconvened the meeting at 10:10 pm.

Deputy Town Manager Shane Stueckle commented that there is a second public hearing on the agenda for this evening but the Planning Commission rules of procedure which have typically been followed, although it is at the Commission's discretion; state that no new public hearings would be initiated after 10:00 pm. The Commission may wish to briefly discuss that matter and then advise residents attending this meeting for that hearing that the Commission will or will not be discussing the item.

Mr. Goodpaster requested discussion and the consensus of the Commission was to continue the public hearing on revisions to the Native Plant Protection ordinance to the Commission meeting on September 22, 2009.

Mr. Goodpaster requested comments from staff, if any, about the public comments heard regarding medical marijuana dispensaries.

Mr. Stueckle commented that the technical issue before the Commission is a land use matter. Staff reports that previously went to Town Council regarding the current moratorium reflect that this is not about the right to use medical marijuana. There is one case currently going through the court system; Qualified Patients Assn. vs. the City of Anaheim (Superior Court Case # 07CC09524). The trial court ruled that a city may lawfully ban all marijuana dispensaries within the city. The case is being appealed and arguments will be heard on or around September 23<sup>rd</sup>.

The Commission heard comments about compatibility and the appropriateness of locations for dispensaries. The gentleman who spoke on behalf of the Desert Ballet Center said it extremely well. That is not a reflection on compassion or other emotions surround the issue. There are people sitting in the front of this room who have lost brothers and mothers-in-law and who have parents currently going through these types of health issues.

The recommendation is for a prohibition of medical marijuana dispensaries within the Town. The existing facility would be allowed to continue operating for a minimum of one year and the owners/operators can request additional time as the ordinance is presented to the Commission.

Regarding the comment that reports of false alarms should not have been included in the presentation, staff completely disagrees. This data was included to document that not all calls to the Sheriff's department regarding the facility were related to criminal activity. Regarding comments about comparing liquor stores to dispensaries, State law mandates that the Town study only this particular land use activity for the moratorium. Staff presented information about other cities in CA with a much longer history with medical marijuana dispensaries than the Town of Yucca Valley.

Mr. Lombardo stated having heard the comments tonight he would like to find some middle ground to make this happen. He asked if there is a way to separate the activities of the dispensary from the ballet center and the activities of children. He sees a need for the dispensary but does not like it being next to the ballet school.

Mr. Stueckle replied those are opportunities that can be explored by the Commission. If it is the Commission's desire to look at provision within the codes to allow these types of facilities then there is probably additional information the Commission would want staff to

come back with to talk about all of the alternatives. There may be other land use regulations the Commission would like to discuss.

Mr. Goodpaster clarified that the Commission can either recommend approval of this ordinance as written to the Town Council or ask staff to work on it further.

Mr. Lombardo stated we need to study this more to find a way. He asked if the dispensary can be moved. Mr. Stueckle replied not under the current moratorium. If the Town Council ultimately adopts regulations that allows for that opportunity and a business enterprise could meet the standards within that new ordinance, then someone could open a dispensary.

Mr. Lombardo suggested a dispensary could be located in a medical office center or near a hospital or pain clinic. He would like to delay a vote on an ordinance.

Ms. Rowe stated the original consensus of the Commission was to draft an ordinance against co-ops. Since then she has visited with law enforcement, patients, oncologists, parents and others to research the issue. She did this to assure her decision against have a dispensary in Yucca Valley was in the best interest of the community. She commended CAMS for trying to abide by the law and for contributing to the local school district and animal shelter. The implication that relocating the dispensary solves a problem insinuates that there is a problem. The problem is the 10% not the 90% of patients who visit CAMS. Under current law patients can grow their own which eliminates the need for a dispensary and insures the quality of the marijuana. She does not want to see people have to drive to Palm Springs. She knows how inconvenient that is. This would also remove the problem from the area of the ballet and karate center, protecting our children, which is paramount. Staff has done a comprehensive job on presenting the information about the issue and she would support the ordinance as it is written.

Ms. Sturges stated she visited the CAMS dispensary and Mr. Ross has explained the cost of his product is due to testing for quality control. She spoke with a couple of people regarding hospital facilities and they look forward to having a facility like this in the future in a hospital environment. Since the County does not have an ordinance we are trying to evaluate the law. The Sheriff's Dept. is torn on the issue and it goes back to the questions: what is the law. CAMS is setting an example by helping local agencies. She admires the speakers who talked about their personal battles with health issues. This ordinance would give CAMS one year to develop plan B. He does not want the facility to be closed just before laws are enacted that could allow it. If 12 months isn't enough time then perhaps it should be 18 months or longer. Regarding transportation, neither MBTA nor Reach Out Morongo Basin provides that service because it is not a doctor's visit. The dispensary door is too close to the ballet centre door. Moving the door may not be feasible. Closing down the facility is out of step with what may be happening with the legalities of the issue and the courts will clarify the situation. She hopes the ordinance can be extended beyond one year so patients can receive medication legally.

Mr. McKoy stated he has moved from "no way" to appreciating the situation and needs of medical patients. He now appreciates that the word marijuana is not bad in all situations. We have a better perception of the surrounding issues involved in this decision.

Mr. Goodpaster thanked everyone who spoke and for being considerate of the other speakers. The biggest concern he had was proximity to schools, pre-schools and Desert Ballet. He spoke with prominent members of the community whose family members experienced cancer and who said if they could have gotten medical marijuana to help ease the pain they would have. He has a good friend with lung cancer and if marijuana would help his friend feel better marijuana is a medicine that has been used for thousands of years. He thinks there is a better way to deal with the issue than to create an ordinance that bans dispensaries and only gives CAMS a year. This ordinance needs work.

Mr. Stueckle commented the Commission has alternatives. One option is for a motion in support of the ordinance. Another option is for a motion to not adopt the ordinance requesting staff to return with additional information about land use activity. In that case the ordinance would be redrafted and returned to the Commission.

Mr. Lombardo stated he would like to revisit this issue and moved that the ordinance as presented not be approved. The motion was seconded by Mr. McKoy and passed by voice vote of 4-1. Ms. Rowe voted no.

#### **4. REVISION OF THE DESERT NATIVE PLANT PROTECTION ORDINANCE**

A Town initiated amendment to the Desert Native Plant Protection Ordinance.

Mr. Stueckle suggested that the Chairman open the public hearing and continue the public hearing to the Commission meeting of September 22, 2009.

Mr. Goodpaster opened the public hearing and continued it to the meeting of September 22, 2009.

**DISCUSSION ITEMS: None**

**CONSENT AGENDA: MINUTES –**

Ms. Sturges moved that the Planning Commission approve as submitted the minutes of the Regular Planning Commission Meeting held on August 11, 2009. The motion was seconded by Mr. Lombardo and passed unanimously by voice vote.

**STAFF REPORTS AND COMMENTS: None**

**FUTURE AGENDA ITEMS: None announced**

**COMMISSIONER REPORTS AND REQUESTS:**

Mr. Lombardo requested that staff look into ways for the Commission to encourage development and reduce regulations so we are more friendly to start up new businesses in the Community. Regulations have piled on top of one another and it's getting tougher and tougher for the small business to get started. More and more businesses are closing and he would like to know what other cities are doing to encourage business. He has been told that a good example of friendly business regulations exist in Banning and Menifee and would like more information.

Mr. Stueckle replied staff has brought discussions of Town regulations to 2 separate Commission meetings regarding requirements and regulations for expansion of business as well as new development projects on vacant land. It is extremely important that the Commission continue to focus on those issues. Staff will be returning with a continuation of that discussion and will be happy to take a look at Banning or Menifee. Staff has significantly researched this because staff also hears those comments. People relate regulations to being user friendly. Both the processes and the development standards in Yucca Valley are standard in the industry. By comparison to a majority of other communities, he believes the Commission will find that our standards are less than most communities, from development impact fees to architectural standards and others. Staff will continue to bring those key policy questions forward so the Commission can discuss those standards and policies and make a recommendation to the Town Council.

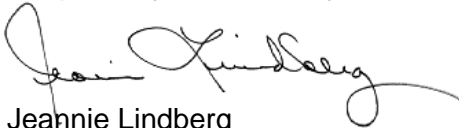
#### **ANNOUNCEMENTS:**

Mr. Goodpaster announced that the next regular meeting of the Yucca Valley Planning Commission will be held on Tuesday, September 22, 2009.

#### **ADJOURNMENT**

The meeting adjourned at 10:45 pm.

Respectfully submitted by,

A handwritten signature in cursive script, appearing to read "Jeannie Lindberg".

Jeannie Lindberg  
Administrative Assistant III