



July 23, 2015

PRESS RELEASE

Town of Monument, Colorado

**FOR IMMEDIATE RELEASE**

**TOWN OF MONUMENT STATEMENT CONCERNING METHADONE CLINIC ZONING ISSUES**

The Town of Monument has worked for many years to enhance the downtown area, considering it to be a magnet for shopping and entertainment. There has been a great deal of success in this effort.

A part of this was the passage in 2009 by the (then) Board of Trustees of an ordinance which allowed many uses in the downtown area as permitted uses in the business district. What that means is a faster process with administrative reviews rather than hearings before the Planning Commission and Board of Trustees. Businesses would thus have a much quicker turnaround time before beginning operations.

A clinic is a permitted use in the B zone district under the 2009 zoning code amendments. Legally there is no distinction between types of clinics, which is why staff did not have any option other than to take the position that the operation of a methadone clinic in the downtown area is a use by right under the applicable zone district. The staff initially was queried about the use and determined, after legal counsel, it met existing criteria. Nothing happened for 5½ months until an application was made to remodel an existing clinic. Nothing in the paperwork indicated it was a methadone clinic.

Contrary to any assertion otherwise, the current Board of Trustees did not seek or desire the establishment of this methadone clinic.

Demands have been made of the Board of Trustees that it stops the use. However, under the 2009 zoning code amendments, the Board of Trustees is not involved in the approval process for a use by right. The appeal of the administrative determination is to the Board of Adjustment, and that hearing is scheduled for **Monday, August 10<sup>th</sup>, 6:30pm at Big Red** (Lewis Palmer School District Admin Building). Thus, while there are certainly concerns about the operation of a methadone clinic in the area under consideration, the 2009 zoning code amendments do not permit involvement in the decision-making by the Board of Trustees.

The Board of Trustees is bound by applicable laws, and those laws include the Town's own ordinances. Each member takes an oath upon being elected to uphold the Constitution of the State of Colorado, the laws of the state and the ordinances of the Town of Monument. That is true whether the individual members of the Board agree with a particular ordinance or not.

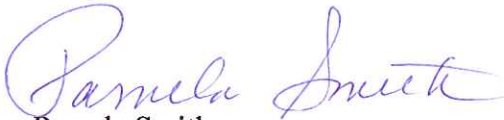
The Board is further charged with protecting the financial viability of the Town. For it to act as has been suggested in an arbitrary manner without justification could subject the Town to significant liability. Some have suggested that is fine because insurance will pay any judgments which might enter. The Town does have insurance but there are exclusions to coverage, one of which is willful and wanton acts by the Town. Ignoring the law when advised otherwise may fall into that category. Under such a circumstance, if a judgment was entered against the Town, the tax-paying citizens would bear the cost reflected as an additional mill levy on existing property.

Further, the Colorado Court of Appeals in several cases has overturned the action of communities seeking to place limits upon methadone clinics, ruling that methadone is a medicine and that communities may not restrict clinic locations.

As noted above, the Town's ordinances, in their current form, do not permit the Board of Trustees to become involved in a zoning determination when the matter is a use by right. There is an appeal process to the Board of Adjustment only, and the Board of Adjustment determination is subject to an appeal to the District Court. There is also a business license application process, but that is the purview of the Town Clerk. The Board of Trustees, like all others in the community, will rely upon the legal process that is in place as it moves forward. The Board of Trustees will also be considering ordinances as appropriate to return some decisions to the hearing process, as well as ordinances to maintain and enhance public safety.

If you have any questions on the foregoing, please feel free to contact the undersigned.

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