



# THE FOUNTAIN HILLS TIMES

Your Award-Winning Hometown Weekly Newspaper

## Beeline restrictions

Motorists traveling the Beeline Highway between Fountain Hills and Mesa will likely face some restrictions between Gilbert Road and the Loop 202 Red Mountain Freeway for the next couple of months.

An asphalt overlay project is scheduled to begin next Monday, Aug. 20.

According to ADOT spokesman Lars Jacoby crews will be milling off about two inches of pavement and replacing it with new asphalt.

Jacoby said the project will result in lane restrictions for motorists during weekdays. However he added that no work will

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## MEDICAL MARIJUANA

### \*Coalition asks town to halt dispensary

By Michael Scharnow  
Times Editor

Those who oppose implementing medical marijuana in Arizona are saying "not so fast" when it comes to opening dispensaries, including the Fountain Hills Coalition.

Just prior to state Department of Health Services personnel playing a bingo-style drawing last week to award nearly 100 dispensary registration certificates, other officials were issuing statements refuting the program.

Arizona Attorney General Tom Horne gave a non-binding opinion stating that provisions of the voter-approved Arizona Medical Marijuana Act are preempted by federal law.

This prompted Carole Groux, executive director of the local Youth Substance Abuse Prevention Coal-

ition, to ask town officials to not proceed with paperwork connected to a potential dispensary opening here.

"Issuing a permit by the Town of Fountain Hills to open a dispensary would put our town employees in the position of violating federal law, which obviously Mr. Horne believes, given this opinion," Groux wrote.

"I believe that our town employees should not be asked to violate federal law at this point by issuing a permit for a dispensary of an illegal substance."

Groux is scheduled to address the Town Council Thursday evening to give an update on coalition activities.

Town Attorney Andrew McGuire, when asked about the coalition's position and request, would only say that "we will do our best to comply with the law."

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## Heat + Dust = Monsoon

### Warnings impact FH students

By Ryan Winslett  
Times Reporter

While Arizona isn't breaking as many heat records as other parts of the country, an average day in the Valley of the Sun is still blazing hot compared to most states.

As a result, local schools and athletic programs have taken heed, limiting physical activity for students to times of the day when the mercury isn't quite so high.

Salt River Project (SRP) announced last week that Wednesday, Aug. 8, marked a record amount of energy being delivered to its Phoenix-area retail customers.

The estimated retail peak for the day was 6,665 megawatts, which topped the previous record set in 2006.



Second grade students Wyatt Mowers and Tyler Jablonsky fill up on water during their brief time on the playground in the mornings.

Reasons cited for the sudden rise in energy use were extreme daytime temperatures, higher overnight temperatures and relatively high humidity.

The high temperature in Phoenix on Aug. 8 was 116 degrees while it did not drop any lower than 93 degrees throughout the night, setting new records for that date.

Despite that, the National Climate Data Center is reporting that Arizona is actually running about average for summer temperatures. While record-breaking highs are being reported across the rest of the country, the heat in Arizona is about par for the course.

Still, hitting 110 degrees on a regular basis led to excessive heat warnings throughout all of last week. Just because Arizona isn't breaking records doesn't mean it hasn't been dangerously hot as of late.

So hot, in fact, local (cont. on page 18A)

### \*Potential dispensary location unknown

By Bob Burns  
Times Reporter

It was a meticulous and rather tedious process used by the Arizona Department of Health Services last week to award medical marijuana dispensary certificates for about 100 operators.

The department held dozens of individual mini-lotteries to determine the applicants who would receive a certificate for each area designated to receive a dispensary.

One certificate was awarded for a dispensary in Fountain Hills.

It was during the Fountain Hills lottery with seven applicants that there was a small bit of drama involved. One of the balls rolled off the platform onto the floor before mixing began. One man donned rubber gloves and picked up the ball to place it onto the platform and the mixing began.

The state's medical marijuana law does not allow the ADHS to identify who receives the dispensary license, however, it appears the Fountain Hills dispensary will go to Mark Steinmetz of Scottsdale.

Steinmetz was identified in a newspaper article

the day after the lottery as the person receiving the Fountain Hills license. He is apparently working with Compassion First AZ to set up the dispensary.

The Times was also told that the Town of Fountain Hills received communication from Steinmetz introducing himself the day following the lottery. However, that letter does not specifically identify Steinmetz as the licensee.

Steinmetz was one of the defendants in an action to have a judge disallow zoning verification on all but one site in Fountain Hills for a dispensary.

Elvin G. Grundy III, the attorney representing Steinmetz in that action, told The Times it was his understanding that Steinmetz was awarded the Fountain Hills license.

However, at the time of that conversation Grundy was out of town and had not yet spoken to Steinmetz directly.

#### Legal issues

There are still a myriad of legal issues surrounding the medical marijuana law and dispensaries in

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Fountain Hills resident Cindy Austin has seen her share of dust storms approaching this summer from the upper end of Vista Del Lago. Austin took this shot of the cloud of dust approaching the Fountain on Saturday.

# \*Marijuana

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The federal Controlled Substances Act names marijuana as an illegal drug and does not recognize it as medicine.

Thirteen county attorneys, along with State Rep. John Kavanagh of Fountain Hills, urged Horne to issue an opinion regarding AMMA and federal laws.

Horne's opinion stated that AMMA provisions and related rules "that authorize any cultivating, selling, and dispensing of marijuana are preempted" by federal law.

He clarified that rules pertaining to the issuance of registry identification cards for patients and caregivers are not preempted because they merely serve to identify individuals who are exempt from prosecution under state law.

Horne said his opinion did not preclude the ADHS

from going ahead with its dispensary selection process Aug. 7 and the issuance of registration certificates.

However, he warned such certificates do not give dispensaries permission to open. Other steps must be met under the AMMA.

"Dispensary certificate holders are advised that it would be prudent to delay additional work and expenditures pending resolution of the preemption issue by a court, which I expect will be resolved in an accelerated manner," Horne concluded.

Under the rules, Fountain Hills would only be allowed one medical marijuana dispensary.

With Arizona's law, there is no limit to the amount of marijuana a dispensary can grow. Patients can get up to two and a half ounces of marijuana every two weeks.

As of June 30, some 128 Fountain Hills residents

had obtained permission to take medical marijuana.

Nearly 30,000 such cardholders exist throughout the state, and more than four out of five users also have permission to grow the drug.

That permission will be gradually withdrawn as dispensaries open.

## County issue

Meanwhile, Maricopa County Attorney Bill Montgomery continues to fight the program's implementation as well.

One current lawsuit, brought by White Mountain Health Center, charges that Maricopa County illegally rejected its registration certificate, one of several requirements to become a dispensary applicant.

The facility would be located in an unincorporated area and needs county zoning approval.

Montgomery had advised county personnel not to participate in the medical-marijuana program because he believes employees could risk prosecution under federal drug laws.

Last week Montgomery reiterated he would ask for a quick resolution of that case on whether the state's

program is legal under the federal act, which makes possession, sale or use of marijuana a crime.

He said earlier court rulings didn't specifically address that question.

Montgomery believes Horne's opinion gives Montgomery authority to prosecute dispensary operators. State Health Department officials are also at risk under federal law, he said.

Some also have questioned the legal role of municipal employees in the process, such as the Town of Fountain Hills issuing zoning verification letters and similar actions for potential dispensary owners and operators.

## Federal role?

AMMA proponents have argued that other courts have ruled that state medical-marijuana laws don't prevent federal officials from enforcing their own laws.

Arizona is one of 17 states that currently allow medical marijuana.

Proponents also state that federal prosecutors have said they intend to focus their enforcement efforts on large-scale drug traffickers, not those complying with state laws and

implementing the AMMA.

U.S. Attorney's Office spokesman Bill Solomon has told The Arizona Republic that the agency's position has not changed since February, when then-Acting U.S. Attorney Ann Scheel told Gov. Jan Brewer the agency would follow Department of Justice policy and focus its efforts on large drug traffickers, not people who use marijuana as treatment under a state program.

"Specifically, the Department of Justice is focusing its limited resources on significant drug traffickers, not seriously ill individuals and their caregivers who are in compliance with applicable state medical-marijuana statutes," Solomon wrote in a statement.

The governor has maintained that while the Department of Justice has prosecuted a number of medical-marijuana operations in California and elsewhere, "the federal government's position remains unclear" regarding Arizona's program and state workers' participation in the law, according to The Republic.

## Speaker reaction

Speaker of the House Andy Tobin said the medi-

cal marijuana lottery marked another "disappointing chapter" in the state's "ill-advised experiment."

"The issues here are simple: Federal law clearly prohibits both possession and distribution of marijuana regardless of the intent," Tobin wrote in a statement.

"Yet, the administrative and regulatory resources of the State of Arizona are currently being used to facilitate federal crimes.

"The situation is legally untenable as it puts state agencies and their employees in danger of violating federal law. State employees deserve absolute certainty that they will not face prosecution for doing their jobs under state law.

"At the moment, Arizona is under a court order to comply with the so-called 'Medical Marijuana Act,' but this forced association cannot be allowed to proceed indefinitely.

"For the sake of both public safety and the rule of law, it is imperative that Arizona abandon its involvement with the sale and distribution of a federally-banned substance."

# \*Lottery

(cont. from page 1A)

Arizona, not the least of which were those brought up by the state's top prosecutors in recent weeks (see separate story).

However, the legal question over the Fountain Hills dispensary site has been addressed, according to Grundy.

The location of Universal Life Church on Enterprise Drive interfered with several potential dispensary sites because the rules restricted locations to more than 500 feet from a church.

Grundy said that now that the certificate has

been awarded the specific site is no longer an issue. A counter claim by Grundy and his clients challenging the legitimacy of the church has been dismissed.

The defendants and the plaintiff in the counterclaim all agreed after the judge's ruling that the issue was over once the lottery was completed, according to Grundy.

"The (DHS) rules state specifically that the license holder can relocate as long as the zoning is met," he said. "The church no longer matters because the dispensary can go wherever it needs to."

Zoning compliance regarding the church separation is no longer an issue, Grundy said.