

Minutes
Town Board Regular Meeting
Town of Paonia, Colorado
February 28, 2017

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Board of Trustees held Tuesday, February 28, 2017 was called to order at 7:00 PM by Mayor Charles Stewart, followed by the Pledge of Allegiance.

Trustees present were as follows:

Mayor Charles Stewart
Trustee Bill Bear
Trustee Chelsea Bookout
Trustee David Bradford
Trustee Bill Brunner
Trustee Karen Budinger
Trustee Suzanne Watson

Town Staff present were as follows:

Town Administrator Ken Knight
Town Clerk Corinne Ferguson
Finance Officer Cindy Jones
Sergeant Neil Ferguson
Public Works Director Travis Loberg
Treasurer Ross King

A quorum was present and Mayor Stewart proceeded with the meeting.

Approval of Agenda

Property address TBD Hwy 133 was added to the executive session and New Business item six (6), Ordinance 2017-03, was removed from the agenda.

Motion by Trustee Bradford, supported by Trustee Budinger to approve agenda as amended. Motion carried with six (6) ayes and zero (0) nays.

Announcements

None.

Visitors

None.

Unfinished Business

Resolution 2017-05 Space to Create Application Authorization

Mayor Stewart provided a brief overview of the history of Space to Create. This is the fifth time the item has been on an agenda and discussed by the Board. March 1, 2017 is the deadline to submit an Intent to Apply, with application deadline submittal set for March 15, 2017. Additional letters from community members were supplied within the trustee packets, reflecting sixteen (16) in favor and two (2) opposed to the program.

Elaine Brett, a Space to Create project coordinator, added that the Resolution is an application only, and is not a contract or binding agreement. By submitting the application, the Town can be involved with major funding agencies who can draw attention to Paonia, as well as build relationships with potential support agencies for the Town.

Discussion ensued regarding the \$35,000 match funding request, the potential for other funding sources, and that the Town is in direct competition with Crested Butte and Carbondale for the Space to Create program.

Mayor Stewart noted concerns with committing funds in the 2018 budget this early in the year and suggested the application be straightforward regarding the unavailability of the funds set in the 2017 budget for economic development.

Trustee Bradford read a prepared statement regarding his concerns with whether the Space to Create program is legal or in the best interest of the Town. He added that those he has spoken with are not in favor of the program. Trustee Bradford stated he cannot support a program he believes uses discriminatory practices, will need substantial monies and staff time, and is not supported by the community.

Trustee Budinger stated Creek Vista Senior Apartments and the upcoming Silver Leaf Development would fall within Trustee Bradford's definition of discriminatory practices. She believes Paonia has a need for affordable housing, regardless of the tenant.

Trustee Bookout stated she has heard nothing but support for the program.

Trustees Brunner and Watson stated a potential conflict and recused themselves from the vote.

Motion by Trustee Bookout, supported by Trustee Budinger to adopt Resolution 2017-05, Space to Create Application Authorization.

Motion by Trustee Bookout, supported by Trustee Budinger to amend the main motion to read that money set aside for economic development must be used for capital improvements, therefore the Town cannot commit to payment of \$35,000 for feasibility study, market study, and other costs, however it is believed the funds may be raised from other third (3rd) party sources and Town will make best efforts to raise the funds. Motion carried with six (6) ayes and zero (0) nays.

Amended motion by Trustee Bookout, supported by Trustee Budinger to adopt Resolution 2017-05, Space to Create Application Authorization. Motion carried with three (3) ayes, one (1) nay from Trustee Bradford, and two (2) abstentions from Trustees Brunner and Watson.

Ordinance 2017-02 Fence Amendment 16-11-40

Administrator Ken Knight addressed the Board, noting the move of fence permit information from the Zoning chapter sixteen (16) to Building Chapter eighteen (18) of the Municode. In the future, the Board may want to move building aspects from Zoning to Building.

Mayor Stewart provided a history of the Ordinance, stating this is the third time on the agenda. The ordinance was referred to the governmental affairs committee at the last Board meeting, with instructions to prepare a preliminary list of approved fence materials. The committee findings were presented as attachment A.

Trustees Watson and Brunner expressed concern with the ordinance, over-governing, procedural requirements of Zoning chapter sixteen (16), and how the fence material restrictions could negatively impact certain zones.

Mayor Stewart stated he did not believe the intent of the procedural requirements were to restrict all changes, and the section may need to be re-drafted in the future. By moving the section to the building chapter, the Board can bypass the requirement, which does not fit the requirements of notice, planning review, and public hearing. Another option is to refer to the Planning Commission for review.

Motion by Trustee Budinger, supported by Trustee Bear to approve Ordinance 2017-02 as presented.

Motion by Trustee Bear, supported by Trustee Watson to table Ordinance 2017-02 and refer to

the Planning Commission for review and recommendation. Motion carried with six (6) ayes and zero (0) nays.

Resolution 2017-02 Establishing a Fence Permit Fee

No discussion, no motion made. Removed from future agendas until Ordinance 2017-02 is reviewed by the Planning Commission.

New Business

Blue Sage Center – Report of Changes

Carol Newman, Blue Sage Center Director, was present. The Blue Sage Center requests the Town Board approve a change to the liquor license, removing Annette Pretorius as Director, and listing Carol Newman.

Motion by Trustee Bradford, supported by Trustee Budinger to approve the Blue Sage Center Report of Changes. Motion carried with six (6) ayes and zero (0) nays.

Blue Sage Center – Change of Premises

Carol Newman, Blue Sage Center Director, was present. The Blue Sage Center requests the Town Board approve a change to the liquor licensed premises, adding an additional storage area.

Motion by Trustee Bradford, supported by Trustee Budinger to approve the Blue Sage Center Change of Premises. Motion carried with six (6) ayes and zero (0) nays.

Flying Fork Café – Liquor License Renewal

No issues with the Flying Fork Café liquor license noted.

Motion by Trustee Brunner, supported by Trustee Bookout to approve the Flying Fork Café liquor license renewal. Motion carried with six (6) ayes and zero (0) nays.

Delicious Orchards – Emergency Sewer Tap Request

Jeff Schwartz, owner of Delicious Orchards was present. Mr. Schwartz requests the Board to approve the sale of a sewer tap on the out-of-town sewer line. Photos and supporting documents were included in the Board packets.

The septic system at Delicious Orchards is failing. The County Board of Health has determined this to be a health issue and since Delicious Orchards is within the Town's planning zone and is within 1000' of our public sewer they are requiring Delicious Orchards petition the Town to connect to the public sewer. The Town has the capacity and ability to service this business.

Discussion ensued regarding the wording of the pre-annexation agreement, volume impact on the sewer treatment plant, and the statutory requirement to permit the connection to the sewer.

Public Works Director Loberg added his only concern had been any type of RV dumping in to the sewer, which Mr. Schwartz noted will not occur.

Trustee Bradford called for the question, with a second from Trustee Bear. Motion carried with a 2/3 majority vote, with Trustee Brunner voting nay.

Motion by Trustee Bookout, supported by Trustee Budinger to approve the sale of a sewer tap to Delicious Orchards. Motion carried with six (6) ayes and zero (0) nays.

Delicious Orchards – Electrical Easement Request

Jeff Schwartz, owner of Delicious Orchards was present. Mr. Schwartz requests the Board to approve an underground electrical easement on Town property that Mr. Schwartz currently has under contract to purchase from the Town.

The easement is for thirty (30) feet to move power from a DMEA line to the property line. Photos and supporting documents were included in the Board packets.

Motion by Trustee Bradford, supported by Trustee Budinger to authorize the electrical easement request to Delicious Orchards. Motion carried with six (6) ayes and zero (0) nays.

Ordinance 2017-04 – Amending & Adding the Prohibiting of Retail Marijuana to the Town Municipal Code (based on the 2014 election results)

Mayor Stewart explained that the ordinance does nothing more than codify the results from the 2014 election.

Trustee Brunner noted concern with how long ago the election occurred, and questioned why this had not been completed.

Trustee Bradford stated housekeeping issues will continue to present themselves from time-to-time, and will need resolution.

Motion by Trustee Bradford, supported by Trustee Bear to adopt Ordinance 2017-04 as presented. Motion carried with five (5) ayes, zero (0) nays, and one (1) abstention from Trustee Brunner.

WestWater Engineering Change Order #2 – Out-of-Town Waterline Schedule A

WestWater requests a \$1,363.00 increase to the current contract for the cost to relocate the flow metering manhole, which allows the Town to monitor water flows in the new waterline from the Upper water treatment plant (2MG).

Trustee Bookout left the meeting at 8:45PM.

Motion by Trustee Bear, supported by Trustee Brunner to change order #2 for Bid Schedule A on the out-of-town waterline project in the amount of \$1,363.00, increasing the total contract from \$681,907.38 to \$683,270.38. Motion carried with five (5) ayes and zero (0) nays.

Trustee Bookout rejoined the meeting at 8:47PM

WestWater Engineering Change Order #3 – Out-of-Town Waterline Schedule B

WestWater requests a \$613.00 increase to the contract for the cost to increase two (2) ¾ inch service line taps to one (1), 1 ½ inch service line tap and add one day to the contract time period. Two homes initially thought to have individual lines share one line, requiring the line size increase.

Motion by Trustee Bradford, supported by Trustee Bear to change order #3 for Bid Schedule B on the out-of-town waterline project in the amount of \$613.00, increasing the total contract from \$683,270.38 to \$683,883.38. Motion carried with six (6) ayes and zero (0) nays.

Regular Business

Mayor's Report: Mayor Charles Stewart reported:

1. Mayor Stewart and Administrator Knight attended the Region 10 meeting on February 23, 2017. The meeting was informative and a good way to meet people.
2. Reminded the Board that executive power rests with the Town Administrator. Board members who wish to have Town Attorney Marek review any issue must go through the Town Administrator. If a Board member has a disagreement with the Town Administrator the request can be taken to the Board for decision.

Town Administrator's Report: Town Administrator Ken Knight reported:

1. The first month with the town has gone by quickly, and been fairly enjoyable.
2. Happy with the current staff and will continue to evaluate current staffing levels for all departments.
3. Reminded the Board that requests of the staff need to go through the Administrator.
4. Noted an issue with disparaging comments being made by a trustee, will not tolerate that kind of activity, and will be recording conversations in the future.

Public Works Department Report: Public Works Director Travis Loberg reported:

1. Attended a water/wastewater conference in Denver.
2. Continues to try to contact the railroad regarding the 3rd Street sidewalk.
3. Out-of-Town waterline project continues to progress well.
4. Schedule A is complete, with all service taps installed and active.
5. A parks meeting is scheduled for next week.
6. Will continue washing streets as time and weather permits.
7. Bad year with potholes. Patching continues.

Police Department Report: Sergeant Neil Ferguson reported:

1. A written report and statement was provided in the packet.
2. 4 applicants for the full-time police officer position. Pending completion of firearms at the academy Stewart Byrge will be the new officer.
3. The police department is now body-cam equipped.

Treasurer's Report: Town Treasurer Ross King reported:

1. Disbursements have been reviewed.
2. Payroll funds have been transferred.
3. Reviewed the purchasing and billing policy with the finance committee.
4. Plans to review audit suggestions with the finance committee Wednesday.

Committee Reports

1. Finance and Personnel: Several personnel policies have been collected for review.
2. Public Works: Met earlier today to discuss multiple projects including the snow plow policy, estimates for treatment plant fencing, and the Samuel Wade Bridge.
3. Governmental Affairs: Trustee Watson provided a section from state statute regarding the formation of a comprehensive plan.
4. Services & Recreation: A meeting is scheduled for March 8, 2017.
5. Facilities & Development: No additional information provided.
6. Public Safety: No additional information provided.

Minutes

Motion by Trustee Bradford, supported by Trustee Budinger to approve the Regular Meeting Minutes for February 14, 2017 as presented. Motion carried with six (6) ayes and zero (0) nays.

Disbursements

Motion by Trustee Bear, supported by Trustee Budinger to authorize the disbursements as reviewed by the Finance Committee with the Town Treasurer Ross King for February 23, 2017, in the amounts of, \$151,327.10 for accounts payable, \$14,050.28 for payroll taxes, and \$15,648.84 for payroll. Motion carried with six (6) ayes and zero (0) nays.

Rick Beers – 48 Box Elder Drive – requested the Board require contractors to install sidewalk, curb, and gutters upon development.

Executive Session

Motion by Trustee Bookout, supported by Trustee Watson to enter executive session for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(a) &

(e); specific to 38976 Hwy 133 and TBD Hwy 133. Motion carried with six (6) ayes, and zero (0) nays.

The Town Board entered Executive Session at 9:30PM.

The following as given by Town Administrator:

The Board returned to open session at 10:31PM.

In attendance were Mayor Charles Stewart, Administrator Ken Knight, Trustees David Bradford, Bill Bear, Suzanne Watson, Karen Budinger, Bill Brunner, Chelsea Bookout, Treasurer Ross King and Real Estate Agent Mike Jackson.

No issues were noted.

Motion by Trustee Bradford, supported by Trustee Bookout to approve the amend and extend contract with SJS Property, LLC. Motion carried with six (6) ayes, and zero (0) nays.

Motion by Trustee Bradford, supported by Trustee Budinger to approve the amend and extend contract with Western Colorado Realty for Lot 1, until September 30, 2017. Motion carried with six (6) ayes, and zero (0) nays.

Motion by Trustee Bradford, supported by Trustee Bear to approve the amend and extend contract with Western Colorado Realty for Lot 2, until June 30, 2017. Motion carried with six (6) ayes, and zero (0) nays.

Motion by Trustee Brunner, supported by Trustee Bear to approve the counter offer on property at 38976 Hwy 133 for \$165,000; striking paragraph 30, subject to resolution approving the sale, approval of subdivision, and other provisions required by the Town attorney. Motion carried with six (6) ayes, and zero (0) nays.

Motion by Trustee Bradford, supported by Trustee Brunner to reject the Lazarski offer. Motion carried with six (6) ayes, and zero (0) nays.

Motion by Trustee Bear, supported by Trustee Budinger to approve the amend and extend contract on 38784 Marsh Road, extending the inspection resolution deadline to March 3, 2017. Motion carried with six (6) ayes, and zero (0) nays.

Motion by Trustee Bradford, supported by Trustee Brunner to approve the inspection resolution for 38784 Marsh Road. Motion carried with six (6) ayes, and zero (0) nays.

Motion by Trustee Brunner, supported by Trustee Bear to approve the amend and extend contract with Western Colorado Realty for 38784 Marsh Road, until April 30, 2017. Motion carried with six (6) ayes, and zero (0) nays.

Adjournment

The meeting was adjourned by Mayor Charles Stewart at 10:40PM

s/s

J. Corinne Ferguson, Town Clerk

s/s

Charles Stewart, Mayor