

Minutes
Town Board Regular Meeting
Town of Paonia, Colorado
May 9, 2017

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Board of Trustees held Tuesday, May 9, 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 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
Chief Neil Ferguson
Public Works Director Travis Loberg
Town Attorney Bo Nerlin
Treasurer Ross King

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

Approval of Agenda

Motion by Trustee Bear, supported by Trustee Watson to approve the agenda. Motion carried with four (4) ayes and zero (0) nays.

Announcements

Trustee Brunner began to read a prepared statement. Mayor Stewart ruled the announcement out of order because the item the statement addressed was an agenda item under new business.

Visitors

Elaine Brett thanked Travis Loberg and Town staff for the repairs made to the railroad crossings in Town.

Unfinished Business

Town Attorney Agreement Ratification

Motion by Trustee Budinger, supported by Trustee Brunner to approve the final town attorney agreement with J. David Reed, PC, authorizing Mayor Stewart to sign on behalf of the Town and Board. Motion carried with four (4) ayes and zero (0) nays.

New Business

Ali Lightfoot – Pan American Avenue Signage Request

Ali Lightfoot – 65 Cedar Drive – was present. Ms. Lightfoot read a prepared statement for the record regarding traffic rules and regulations for the BLM access area at the top of Pan American Avenue and listing concerns regarding where people park their vehicles. Ms. Lightfoot requests signage regarding parking and access to the public land.

Town Administrator Knight provided an overview of the proposed signage suggested by Public Works Director Travis Loberg and reviewed by the Public Works Committee.

Elaine Brett – Hawks Haven Homeowners Association member – requested to be included in any discussion regarding use and development of the area. Ross King – Pan American Homeowners Association made the same request.

Motion by Trustee Bear, supported by Trustee Budinger to approve the purchase and installation of signage as provided for the BLM access area. Motion carried with four (4) ayes and zero (0) nays.

Paonia Liquors Inc Liquor License Renewal

Paonia Liquors Inc, dba Paonia Liquors, requests the annual liquor license renewal for the retail liquor store located at 4 Third Street. No issues were noted.

Motion by Trustee Bear, supported by Trustee Budinger to approve the liquor license renewal for Paonia Liquors as presented. Motion carried with four (4) ayes and zero (0) nays.

One Thirty-Three LLC Liquor License Renewal

One-Thirty-Three LLC dba West Elk Wine & Spirits, requests the annual liquor license renewal for the retail liquor store located at 4 Third Street. No issues were noted.

Motion by Trustee Brunner, supported by Trustee Bear to approve the liquor license renewal for West Elk Wine & Spirits as presented. Motion carried with four (4) ayes and zero (0) nays.

Delta County Emergency Management

Mayor Stewart provided a brief overview regarding the Delta County joint emergency management planning process. Delta County requires a memorandum of understanding establishing a working agreement with the Town regarding the emergency management plan and assistance.

Motion by Trustee Brunner, supported by Trustee Budinger to waive attorney/client privilege from Town Attorney David Marek's communication dated April 28, 2017. Motion carried with four (4) ayes and zero (0) nays.

Eric Goold – KVNF reported – asked if the Town had previously adopted an emergency management plan. The Board requested the Town Clerk investigate the status.

Motion by Trustee Bear, supported by Trustee Budinger to approve the Memorandum of Understanding for disaster or emergency assistance between the Town of Paonia and Delta County, and authorize Mayor Stewart and Chief Ferguson to sign on behalf of the Town, and include Mayor Stewart as an additional liaison officer. Motion carried with four (4) ayes and zero (0) nays.

Resolution 2017-07 Records Retention

Motion by Trustee Bear, supported by Trustee Budinger adopt Resolution 2017-07, a resolution adopting by reference the Colorado Model Municipal Records Retention Schedule for the Town of Paonia. Motion carried with four (4) ayes and zero (0) nays.

Ordinance 2017-07 Sale of Real Property

Mayor Stewart provided an overview of the sale of property located at 38976 Hwy 133. The sale is contingent upon the final subdivision approval by Delta County. Buyers real estate agent Bob Pennetta requested a pre-closing occupancy agreement that includes permission to repair the existing septic system.

Discussion ensued regarding the scheduled closing, short-term lease, and timing concerns. At

the instruction of the Board Town Attorney Nerlin will prepare and negotiate the lease agreement.

Motion by Trustee Brunner, supported by Trustee Budinger to adopt Ordinance 2017-07 for the sale of real property located at 38976 Hwy 133, Paonia, CO 81428, contingent upon subdivision approval by Delta County. Motion carried with four (4) ayes and zero (0) nays.

Ordinance 2017-08 Sale of Real Property

Mayor Stewart provided an overview of the sale of property located at tbd Hwy 133. The sale is contingent upon the final boundary adjustment approval by Delta County.

Motion by Trustee Bear, supported by Trustee Brunner to adopt Ordinance 2017-08 for the sale of real property located tbd Hwy 133, Paonia, CO 81428, contingent upon boundary adjustment approval by Delta County. Motion carried with four (4) ayes and zero (0) nays.

First State Bank of Colorado Line of Credit

Mayor Stewart provided an overview of the existing open line of credit at First State Bank of Colorado, which is used to pay out on open water project invoices while the town submits requests for reimbursement. The open line of credit needs to be extended until the end of the fiscal year.

Motion by Trustee Budinger, supported by Trustee Bear to authorize the renewal of the \$1 million-dollar open line of credit with First State Bank of Colorado, adding Mayor Stewart and Treasurer King as authorized signers. Motion carried with four (4) ayes and zero (0) nays.

Trustee Brunner Discussion Request

Trustee Brunner began to read a prepared statement but was cautioned by Mayor Stewart to refrain from discussion that occurred in executive session.

Discussion ensued regarding what is considered privileged discussion in executive session, improper behavior and violations of the code of conduct, and the agenda item request from Trustee Brunner at the previous Board meeting.

Town Attorney Nerlin stated at this time he is not prepared to give legal advice. Mayor Stewart added that the issue was resolved at the previous meeting, at which time the Board sustained the chair's ruling that Trustee Brunner's request was out of order, and discussion, including the use of hypothetical scenarios with the intent to disclose privileged information, is also out of order.

Discussion ensued regarding Robert's Rules of Order.

Trustee Brunner stated that he believes that if the Board of Trustees is unwilling to deal with issues and behavior because it occurred in executive session then the Board members are morally bankrupt and should not be in any form of leadership. Trustee Brunner provided a packet of e-mails he believes violate the open meetings law to the media and provided a copy to the Town Clerk for the record.

Motion by Trustee Bear, supported by Trustee Budinger to end discussion and move on. Motion carried on a tie vote decided by Mayor Stewart:

Trustee Bill Bear - aye
Trustee Bill Brunner – refused to vote
Trustee Karen Budinger - aye
Trustee Suzanne Watson – refused to vote
Mayor Charles Stewart – aye

Trustee Bear requested the Town Attorney to review the legality regarding the e-mails released to the media by Trustee Brunner.

Motion by Trustee Bear, supported by Trustee Budinger to have the Town Attorney review the legality of the release of the e-mails to determine if something improper was disclosed.

Discussion ensued regarding the review of other e-mails.

Trustee Bear, supported by Trustee Budinger called for the question. Motion failed for lack of a majority vote.

Discussion continued regarding the released e-mails.

Main motion by Trustee Bear, supported by Trustee Budinger to have the Town Attorney review the legality of the release of the e-mails to determine if something improper was disclosed. Motion carried with two (2) ayes, one (1) nay from Trustee Watson, and one (1) abstention from Trustee Brunner.

Motion by Trustee Budinger, supported by Trustee Bear to schedule a time for Board training with Bo Nerlin. Motion carried with four (4) ayes and zero (0) nays.

Constantine Hirschfeld – 336 Rio Grande – expressed frustration with the constant arguing and disrespect amongst the Board of Trustees, adding he believe the meetings would last half the time if the Board would stop arguing and get things completed.

Regular Business

Mayor's Report: Mayor Charles Stewart reported:

1. Mayor Stewart and Trustee Bradford had the pleasure of sitting as judges for the sixth-grade debates.
2. A meeting was held with the State regarding Space to Create.
3. The primary obligation of the finance committee is to sign check. Under federal regulations the bank must collect personal information for all signers. Town received notice from First Colorado National Bank that Trustee Brunner refused to provide required information. Should Trustee Brunner refuse to provide the information to the bank there will be an agenda item for removal from the finance committee at the next meeting.

Trustee Brunner stated he will provide the information to the bank.

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

1. Completed a walk-about with community representatives regarding community desires.
2. Believes the Municipal Quarterly hosted by Town was very informative.
3. Met earlier in the week with former Town Attorney Marek to discuss unfinished business.
4. A government affairs committee meeting took place last week.
5. Will be attending the regional CIRSA meeting in Montrose.
6. Other meetings with multiple groups are scheduled over the next several weeks.

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

1. Provided the leaf-vac for Board to see.
2. There are a few park projects scheduled for completion following the CIRSA audit results.
3. Will assist the Paonia River park group Friday with the completion of the parking lot.
4. Out-of-Town waterline projects continue.
5. In-Town waterline project began today at Second Street and Lamborn Avenue.
6. The replacement of the Lake Fork spring line is scheduled.
7. Meter replacement is ongoing.

Police Department Report: Chief Neil Ferguson reported:

1. A written report and statement was provided in the packet.
2. The CIRSA audit went well, with one request for higher security features in the police

department.

3. The department has a reserve officer in the testing phase of scheduling. He should be on the road in Town soon. Lauren Winnette has fourteen (14) years of law enforcement experience.

Treasurer's Report: Town Treasurer Ross King reported:

1. Disbursements and payroll have been reviewed.

Committee Reports

1. Finance and Personnel: Disbursements have been reviewed.
2. Public Works: A meeting has been scheduled for May 25, 2017.
3. Governmental Affairs: Met last week to discuss board and committee vacancies, trash service bids, the emergency management memorandum, parking issues on Grand Avenue, the upcoming public hearing for business use at 719 2nd Street, and the renewal of the cable franchise agreement.

Minutes

No minutes provided for approval.

Disbursements

Motion by Trustee Budinger, supported by Trustee Brunner to authorize the disbursements as reviewed by the Town Treasurer and Finance Committee for May 8, 2017, in the amounts of, \$124,173.89 for accounts payable, \$15,500.11 for payroll taxes, \$8,000.00 for WWTP transfer, and \$17,655.31 for payroll. Motion carried with four (4) ayes and zero (0) nays.

Executive Session

Motion by Trustee Bear, supported by Trustee Budinger to enter executive session for discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; specific to the Town Administrator. Motion carried with four (4) ayes and zero (0) nays.

The Board entered executive session at 9:21PM

The Board returned to open session at 9:37PM

Those in attendance were: Mayor Stewart, Trustees Bear, Brunner, Budinger, Watson, Town attorney Bo Nerlin, and Town Administrator Ken Knight.

No issues noted.

Adjournment

The meeting was adjourned by Mayor Charles Stewart at 9:39PM

_____/s/_____
J. Corinne Ferguson, Town Clerk

_____/s/_____
Charles Stewart, Mayor