

Minutes
Town Board Regular Meeting
Town of Paonia, Colorado
May 23, 2017

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Board of Trustees held Tuesday, May 23, 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 – arrived at 7:05PM
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
Chief Neil Ferguson
Public Works Director Travis Loberg

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

Approval of Agenda

Mayor Stewart suggested the removal of the Trustee Brunner finance committee removal item under Mayors Report since Trustee Brunner has provided the information to the bank.

Motion by Trustee Brunner, supported by Trustee Watson to amend the agenda to postpone the executive session and to request Town Attorney Nerlin review the CORA request relating to Hawks Haven e-mails.

Discussion ensued regarding the timeliness of the agenda item. Trustee Brunner stated the reason he released the e-mails was because Mayor Stewart threatened to release them during executive session.

Motion by Trustee Bear, supported by Trustee Bradford to call for the question. Motion carried with four (4) ayes and two (2) nays.

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

Announcements

Trustee Brunner informed the Board of Trustees that he made a public statement to the press regarding his opinion of the discourse within the Board.

Visitors

None

Unfinished Business

None

New Business

WestWater Engineering Administration & Inspection Update

Steve LaBonde was present on behalf of WestWater Engineering. The out-of-town waterline project is nearing the fully approved engineering contract amount. WestWater is requesting approval of an estimated contract increase for the fulfillment of the project. The planned project completion is slated for mid-June 2017.

Discussion ensued regarding the additional costs due to out-of-scope changes.

Motion by Trustee Bradford, supported by Trustee Bookout to approve the increase to the WestWater Contract Administration budget, not to exceed \$40,000.00

Motion carried with six (6) ayes and zero (0) nays.

Change Order #9 Out-of-Town Waterline Project

Steve LaBonde was present on behalf of WestWater Engineering. The original plans called for an open-cut in the road for water pipe installation, but Delta County requires boring under the road. Some costs will be recovered within the original bid amount change.

Motion by Trustee Bear, supported by Trustee Bradford to approve change order #9 for Bid Schedule D on the out-of-town waterline project in the amount of \$2,200.00; increasing the total contract from \$706,209.19 to \$ 709,120.19. Motion carried with six (6) ayes and zero (0) nays.

Change Order #10 Out-of-Town Waterline Project

Steve LaBonde was present on behalf of WestWater Engineering. The change order reflects the additional costs to bore across Lamborn Mesa Rod, adding a four hundred (400) foot waterline extension to connect to the new eight (8) inch waterline and the abandonment of the existing five (5) inch waterline.

Motion by Trustee Bradford, supported by Trustee Bear to approve change order #10 for Bid Schedule D on the out-of-town waterline project in the amount of \$1,080.00; increasing the total contract from \$709,120.19 to \$710,200.19. Motion carried with six (6) ayes and zero (0) nays.

Change Order #11 Out-of-Town Waterline Project

Steve LaBonde was present on behalf of WestWater Engineering. The change order reflects the additional costs to import backfill material to ensure trenches do not settle, as required by Delta County.

Motion by Trustee Bradford, supported by Trustee Bookout to approve change order #11 for Bid Schedule D on the out-of-town waterline project in the amount of \$20,929.93; increasing the total contract from \$710,200.19 to \$731,130.12. Motion carried with six (6) ayes and zero (0) nays.

Change Order #12 Out-of-Town Waterline Project

Steve LaBonde was present on behalf of WestWater Engineering. The change order reflects the increase to the contract for the additional costs to relocate an air-vacuum release valve after dispute of land ownership.

Motion by Trustee Bear, supported by Trustee Bradford to approve change order #12 for Bid Schedule D on the out-of-town waterline project in the amount of \$1,109.12; increasing the total contract from \$731,130.12 to 732,239.24. Motion carried with six (6) ayes and zero (0) nays.

Mr. LaBonde state the update to bid schedule C will delete the existing bid schedule C and will have for Board approval at the next meeting, reflecting the net increase of \$115,000.00. The Town needs to sign the compliance certification and complete the transfer of the storm water management plan from Pitt Construction to the Town. The plan requires monthly inspections

until the vegetation takes place. This should occur by the end of summer, 2017.

Town Speed Limit Final Review

Administrator Knight provided an overview of the proposed speed limit changes throughout Town. A map was provided in the Board packet.

Discussion ensued regarding the proposed map and further suggestions regarding retaining the current speed on 2nd Street, Grand Avenue change to 15mph, and Samuel Wade Road reduction from 35mph to 25mph.

An ordinance to finalize the speed limits will be drafted and included in the packet for the June 13, 2017 Board meeting.

Motion by Trustee Bradford, supported by Trustee Budinger to approve the changes to the current speed zones as presented.

Motion to amend by Trustee Bookout, supported by Trustee Bradford to include the 400 block of Box Elder Avenue and North Fork at 15mph. Motion carried with six (6) ayes and zero (0) nays.

Motion to amend by Trustee Budinger, supported by Trustee Bookout to set all alley speeds to 5mph. Motion carried with six (6) ayes and zero (0) nays.

Motion to amend by Trustee Watson, supported by Trustee Brunner to retain the 20mph area at Mathews Lane and 1st/2nd Street.

Discussion ensued regarding the speed changes and the potential for the installation of a 4-way stop.

Motion to amend fails with a tie vote decided by Mayor Stewart as:

Trustee Bill Bear - nay
Trustee Chelsea Bookout – nay
Trustee David Bradford - nay
Trustee Bill Brunner - aye
Trustee Karen Budinger - aye
Trustee Suzanne Watson – aye
Mayor Stewart – nay

Main motion by Trustee Bradford, supported by Trustee Budinger to approve the changes to the current speed zones as amended. Motion carried with six (6) ayes and zero (0) nays.

Resolution 2017-08 Water Right Conveyance

The property located at 38784 Marsh Road was sold to Mr. Cech. An old water right for the flows over four (4) feet from the Norris pond was located and Mr. Cech requests to retain the water rights. The Town can quit claim deed the rights to Mr. Cech with no warranty.

Motion by Trustee Bear, supported by Trustee Brunner to approve Resolution 2017-08, a water right conveyance at sale of property located at 38784 Marsh Road, Paonia. Motion carried with six (6) ayes and zero (0) nays.

Draft Trash Services RFP

Administrator Knight provided an overview regarding discussion of contracting for trash services with the governmental affairs committee. Options for trash only and trash with curbside recycling have been included in the RFP.

Discussion ensued regarding penalties and similar Town comparisons.

Motion by Trustee Bradford, supported by Trustee Budinger to postpone discussion and open a comment period to the public until June 13, 2017. Motion carried with six (6) ayes and zero (0) nays.

nays.

Resolution 2017-09 Allocation of USDA Funds

The Crousen property was partially funded with grant funds provided by the USDA. The grant agreement requires the repayment of a portion of the sale proceeds. USDA requires 22.95% of the sale proceeds be re-paid following the sale of property. Legal, realtor costs, and other associated costs can be deducted from the proceeds before the 23% is calculated. All sale proceeds will go in to a separate reserve account until the USDA repayment is finalized.

Motion by Trustee Watson, supported by Trustee Budinger to approve Resolution 2017-09, USDA requirements for the sale of real property under contract with Delicious Orchards. Motion carried with six (6) ayes and zero (0) nays.

Executive Session

Attorney Nerlin is out ill, but will be available via telephone for the executive session. Mayor Stewart noted that on May 9, 2017 Trustee Brunner released fourteen (14) e-mails addressed to multiple parties, including the media and Town Clerk. The item was not on the agenda, and at that time Trustee Bear requested attorney review. The intent of the executive session is to receive legal advice as requested.

Motion by Trustee Bear, supported by Trustee Budinger to enter executive session for a conference with the Town attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b); specific to Trustee Brunner's e-mail release. Trustee Brunner recused himself from the vote. Motion carried with five (5) ayes and zero (0) nays.

The Board entered executive session at 8:43PM
The Board returned to open session at 10:04PM.

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

No issues noted.

Possible Action Following Executive Session

Motion by Trustee Bradford, supported by Trustee Bookout for the Town Attorney to prepare a memo to be released to the public regarding the memo and discussion during executive session. Motion carried with three (3) ayes, two (2) nays from Trustees Bear and Watson, and one (1) abstention from Trustee Brunner.

Motion by Trustee Bradford, supported by Trustee Bookout that the Board consider possible disciplinary action against Trustee Brunner at the next Board meeting. Motion carried with three (3) ayes, one (1) nay from Trustee Bear, (1) abstention from Trustee Brunner, and a refusal to vote from Trustee Watson.

Regular Business

Mayor's Report: Mayor Charles Stewart reported:

1. Marsh Road property sale closed May 15, 2017.
2. Space to Create meeting was held May 8, 2017, the Town has received the request to submit the final application by June 6, 2017.
3. The Pre-closing lease agreement requested by the Sommers family is under negotiation.

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

1. Public Works committee meet Thursday, May 25, 2017.
2. Out of the office June 1, 2017 for a workshop and using personal days June 2nd and 5th.

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

1. In-Town waterline project had a successful start.
2. Clean-up from the snow and wind storm continues.
3. Parks maintenance is going well.
4. The new peony bed curbing is scheduled for installation.

Trustee Bradford added that fill material near Samuel Wade Road is for future pedestrian improvements.

Police Department Report: Chief Neil Ferguson reported:

1. A written report and statement was provided in the packet.
2. The department received the ammunition reimbursement request funds and has an additional request out that was approved.
3. Stewart Byrges field training is progressing well and he should complete training ahead of schedule.

Treasurer's Report: Town Treasurer Ross King was absent. Finance Officer Cindy Jones reported:

1. Disbursements and payroll have been reviewed.
2. Property sales funds are being transferred to a restricted fund account at COLO Trust.
3. Matt Torrez was here for two days and the audit is progressing.

Committee Reports

1. Finance and Personnel: Nothing to report.
2. Public Works: The Trees on 1st Street between Grand and Onarga Avenue are growing in to the lane of traffic. Tree maintenance is set for discussion at the next committee meeting.
3. Governmental Affairs: Nothing to report.

Minutes

Motion by Trustee Bear, supported by Trustee Budinger to approve the corrected section from the minutes for April 25, 2017 as presented. Motion carried with six (6) ayes and zero (0) nays.

Disbursements

Motion by Trustee Brunner, supported by Trustee Budinger to authorize the disbursements as reviewed by the Town Treasurer and Finance Committee for May 22, 2017, in the amounts of, \$213,732.00 for a COLO Trust Transfer (sewer restricted), \$250,000.00 COLO Trust transfer (unrestricted), \$155,661.90 for accounts payable, \$6,693.9 for payroll taxes, and \$17,621.36 for payroll. Motion carried with six (6) ayes and zero (0) nays.

Motion by Trustee Bradford, supported by Trustee Bookout to include credit card transaction reports with disbursements. Motion carried with six (6) ayes and zero (0) nays.

Adjournment

The meeting was adjourned by Mayor Charles Stewart at 10:36PM

s/s
J. Corinne Ferguson, Town Clerk

s/s
Charles Stewart, Mayor