

Minutes
Town Board Regular Meeting
Town of Paonia, Colorado
August 9, 2016

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Board of Trustees held Tuesday, August 9, 2016 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 David Bradford
Trustee Bill Brunner
Trustee Karen Budinger
Trustee Chelsea Bookout
Trustee Suzanne Watson

Town Staff present were as follows:

Town Manager Jane Berry
Town Clerk Corinne Ferguson
Public Works Director Travis Loberg
Sergeant Neil Ferguson
Town Attorney David Marek
Treasurer Ross King

Finance Officer Cindy Jones was absent.

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

Approval of Agenda

Motion by Trustee Bear, Supported by Trustee Budinger to amend the agenda placing the scheduled Public Hearing ahead of Announcements. Motion carried with six (6) ayes and zero (0) nays.

Public Hearing – Cirque Cyclery, LLC dba Remedy Liquor License Application 7:00pm
(Clerk note: This is not the official transcript, but a summary of the proceedings. The Public Hearing was recorded to be kept as the official record. jcf)

The Public Hearing began at 7:05 PM with a roll call vote.

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

Mayor Stewart stated this is a quasi-judicial hearing and turned the meeting over to Town Attorney Marek. Attorney Marek outlined the procedure for the public hearing and read the Preliminary Findings and Report. The complete application packet was noted for the record as Exhibit A.

Amy DeLuca, owner of Cirque Cyclery, LLC, located at 232 Grand Avenue, presented an overview of the multi-use business plan, which includes the café known as Remedy, hours of

operation, safety features, as well as current and projected staffing levels. Music and noise concerns were addressed, with primarily acoustic musicians expected to perform at special events. Ms. DeLuca stated Remedy is the only establishment on the Western Slope that uses 75% organic produce for all cold-pressed juices. Remedy is a farm to table establishment that primarily utilizes existing agricultural businesses in the North Fork area and all items are from within the State of Colorado.

232 Grand, LLC, comprised of Amy DeLuca, Frederick Zimmer, Mary George, and John Maddox, lease the space to the Cirque Cyclery, LLC, which houses a bicycle sales and repair shop, a clothing and jewelry store, and Remedy, the café.

Trustee Bradford believes moving forward the Board, acting as the Local Liquor Authority should require signatures supporting the needs and desires of the community be Paonia Town residents only.

Catherine Griswold – Crested Butte – believes people are losing their rights and it is the government's responsibility to protect them.

Mayor Stewart received clarification from Attorney Marek regarding a person's right to speak at a public hearing. An interested party within Town limits has the right to speak, while others may speak at the desire of the Board.

Mary George (40820 O Road), Elaine Brett (1899 Hawks Haven Road), Lucy Hunter (337 Main Avenue), Sarah Patterson (205 Main Avenue), Amina Uben (40 Main Avenue), Frederick Zimmer (40771 German Creek Road), Prima Merry (110 Clark Avenue), and David Fisher (14139 Runzel Gulch) spoke in favor of the establishment and liquor license request.

No opposition was stated.

The current zoning for 232 Grand Avenue is C-1, the Town core commercial area, which suits the desired use of Cirque Cyclery, LLC dba Remedy.

The Public Hearing concluded at 7:50 PM.

Announcements

None

Visitors

None

Unfinished Business

Employment of Interim Town Manager

Mayor Stewart provided a brief history regarding Town Manager Berry's resignation and the direction given by the Board regarding the hire of an Interim Town Manager. The Finance and Personnel Committee met Saturday August 6, 2016 to develop a list of potential candidates to interview. Five (5) people were contacted, with three (3) having interest in the position. No additional candidates are expected to be added for consideration and the Finance and Personnel Committee requests interviews be scheduled for Saturday, August, 13, 2016 beginning at 9am.

Discussion ensued regarding the cancellation/postponement of the scheduled Budget Retreat on Saturday, August 13, 2016. The retreat will be discussed under Regular Business.

Motion by Trustee Bear, supported by Trustee Bradford to set a Special Meeting for Saturday, August 13, 2016 at 9 AM for the purpose of interviewing Interim Town Manager Candidates. Trustee Brunner expressed concern that the pool of candidates was too limited and the Board should open the search to a wider audience.

Trustee Bear explained the need to hire an Interim Town Manager, who would assist in the

process of hiring a permanent replacement.

Trustee Watson asked if a letter of interest was received from an interested community member for the interim position. Discussion ensued regarding local community members interest/application/qualifications.

Motion by Trustee Brunner, supported by Trustee Bookout to amend original motion to set Special Meeting for Sunday, August 14, 2016 at 9 AM. Motion carried with five (5) ayes, and one (1) nay from Trustee Bradford.

Discussion ensued regarding schedule conflicts for Sunday, August 14, 2016, for Town Clerk Ferguson and Trustee Bradford.

Amended motion by Trustee Bear, Supported by Trustee Bradford, to set a Special Meeting for Sunday, August 14, 2016 at 9 AM for the purpose of interviewing Interim Town Manager Candidates. Motion failed with two (2) ayes and four (4) nays from Trustees Bear, Bradford, Bookout, and Brunner.

Motion by Trustee Bookout, supported by Trustee Budinger to set a Special Meeting for Saturday, August 13, 2016 at 9 AM for the purpose of interviewing Interim Town Manager Candidates. Motion carried with six (6) ayes and zero (0) nays.

Motion by Trustee Budinger, supported by Trustee Bradford to authorize payment of travel and overnight expenses for the Interim Town Manager Candidates. Motion carried with six (6) ayes and zero (0) nays.

Discussion ensued regarding community member who submitted letter of interest for the Interim Town Manager position. The Finance and Personnel Committee stated the letter and resume were reviewed, and while the interested party is highly qualified in many areas, Town Manager for Paonia is not one of them.

Motion by Trustee Brunner, supported by Trustee Watson to include community member who expressed interest in the Interim Town Manager position be included in the Saturday, August 13, 2016 interviews.

Discussion continued regarding the community member applicant and Roberts Rules of Order.

Trustee Brunner withdrew the motion.

New Business

Lee Hart, Delta County Libraries Update

Lee Hart, District Director for Delta County Libraries was present. Ms. Hart has been giving updates to each Municipal Board throughout Delta County. Use of the Paonia Public Library continues to grow, showing approximately 400 more people in the library in 2015 from 2014. A pilot program with the Paonia Library and Elsewhere is underway, where local library card holders can “check out” a piece of local artwork to display in their home or business for a period of three (3) months. Ms. Hart hopes to expand the program throughout Delta County.

Consideration to Approve New Hotel and Restaurant Liquor License application – Cirque Cyclery, LLC dba Remedy, 232 Grand Avenue, Paonia, Colorado

Motion by Trustee Bradford, Supported by Trustee Bookout to accept Findings of Fact and approve Liquor License Application conditional of all fees paid as required by the State of Colorado. Motion carried with six (6) ayes and zero (0) nays.

Consideration to Adopt Resolution 2016-05 Thliveris Addition Annexation Findings of Fact

Mayor Stewart provided a brief history of the lengthy process for annexation and read the heading of Resolution 2016-05, a Resolution of the Town of Paonia, Colorado, Pursuant to

C.R.S. 31-12-110, for Annexation of the Thliveris Parcels, 1 and 2 (Thliveris Addition)
Identifying Findings of Fact.

Motion by Trustee Bear, supported by Trustee Budinger, to adopt Resolution 2016-05 Findings of Fact regarding the Thliveris Annexation.

Discussion ensued regarding Paragraph six (6), referencing the Comprehensive Plan, which Trustee Watson believes does not support the use of the Thliveris Parcels. Town Manager Berry stated item six (6) of the Findings of Fact is a critical component and supports the other Findings of Fact included in the Resolution. Compliance with the Comprehensive Plan is a vital part of the annexation application process. Any potential issues are being addressed with the Planning Commission, and will be brought to the Board in the next few weeks.

Motion by Trustee Watson, Supported by Trustee Brunner to amend the original motion, striking paragraph six (6) from Resolution 2016-05, Findings of Fact. Motion failed with two (2) ayes and four (4) nays from Trustees Bear, Bookout, Bradford, and Budinger.

Motion by Trustee Brunner, Supported by Trustee Watson to amend the original motion amending Resolution 2016-05 to include that all Town Codes and Ordinances shall apply to all signs and structures built or modified after the Thliveris Annexation Application was submitted to the Town.

Discussion ensued regarding redundancy of proposed amendment in comparison to the executed pre-annexation agreement and the extensive amount of time Building Official Dave Coleman spent regarding Code and Ordinance compliance of the Thliveris property. Town Attorney Marek added that additional terms and conditions cannot be added without the consent of the applicant.

Motion failed with one (1) aye and five (5) nays from Trustees Bear, Bookout, Bradford, Budinger, and Watson.

Trustee Watson attempted to make a secondary motion striking Comprehensive Plan from paragraph six (6) of Resolution 2016-05. Point of Order by Trustee Bradford, Trustee Watson was not recognized by the Chair. Mayor Stewart stated the Board will not move forward with the secondary motion, as the subject was previously voted on and failed.

Original motion by Trustee Bear, supported by Trustee Budinger, to adopt Resolution 2016-05 Findings of Fact regarding the Thliveris Annexation. Motion carried with four (4) ayes, and two (2) nays from Trustees Brunner and Watson.

Consideration to Adopt Ordinance 2016-03 Thliveris Addition Annexation

Mayor Stewart read Ordinance 2016-03 heading for the record. Town Manager Berry explained the need to adopt the ordinance as an emergency, following the recommendation of the Colorado Municipal League (CML). Statute requires annexations to take effect immediately, with a strict timeline of required notices that must be submitted following the approval.

Mayor Stewart and Trustee Bradford stated the annexation is a positive addition to the town and encouraged the Board to support the annexation ordinance.

Discussion ensued regarding Robert's Rules of Order, Point of Order by Trustee Bradford, Trustee Watson was not recognized by the Chair. Mayor Stewart chastised Trustee Watson, stating should she continue to speak without being recognized he will request Board action.

Motion by Trustee Bradford, Supported by Trustee Budinger to adopt Ordinance 2016-03 Thliveris Addition Annexation. Motion carried with six (6) ayes and zero (0) nays.

Lauren Thliveris – co-owner of Berg Harvest and participating applicant in the Thliveris annexation requested to address the Board for the record. Ms. Thliveris thanked the Board and staff, especially Town Manager Berry and Building Official Coleman for the support received, stating the intention of the business and annexation is to provide a beautiful setting and local fruits and services on the entryway to Paonia. It was never the intent to avoid permits or

requirements set by the Town. Ms. Thliveris stated she has felt harassed and discriminated against by Trustee Bill Brunner since the start of the process. If there is fault in the process the Town needs to address correcting the process, not hinder the efforts for annexation.

Ms. Thliveris requested for the record that Bill and Jen Brunner are not permitted to come on to Berg Harvest property or any other property owned by the Thliveris family.

Trustee Brunner apologized to Ms. Thliveris if she felt harassed, stating his intent is to carry out his duty as a Trustee. Trustee Brunner added he indicated problems to the Town Administration, which left him frustrated with a lack of communication, and unfortunately that frustration was expressed during the meetings.

Mayor Stewart stressed to the Board that it becomes a serious problem when Trustees involve themselves in the daily activities of staff, and it is the role of the Town Manager, not the Board, to monitor and manage day to day operations.

Consideration to Approve Special Event Liquor License Application for the Blue Sage Center for the Arts at Paonia Town Hall, 214 Grand Avenue, Paonia, Colorado

Annette Pretorius was present on behalf of the Blue Sage Center. The Blue Sage requests the Board approve a Special Events Liquor License Application for the Town Community Room. A special musical event is scheduled for the evening of September 17, 2016 and the Center would like to offer wine with dinner. No issues noted.

Motion by Trustee Bradford, Supported by Trustee Bear to approve the Blue Sage Center for the Arts Special Events Liquor License Application. Motion carried with six (6) ayes and zero (0) nays.

Consideration to Approve Large Group Park/Event Application for the Visionary Summit

Alicia Michelsen was present on behalf of The Learning Council. The Learning Council requests the Board approve a Large Group Park/Event Application for Poulos Park. The Visionary Summit will have vendor tables located in the park with ongoing activities at the Blue Sage Center for the Arts and the Paradise Theatre. No issues noted.

Motion by Trustee Bear, Supported by Trustee Bookout to approve the Learning Council Visionary Summit Large Group Park/Event Application. Motion carried with six (6) ayes and zero (0) nays.

Regular Business

Mayor's Report: Mayor Charles Stewart reported:

Mayor Stewart enjoyed greeting and participating in the Downtown Colorado Institute event and gave thanks to Elaine Brett and group of volunteers for their efforts in preparation for the event.

Trustee Brunner requested to meet with Mayor Stewart to discuss Roberts Rules of Order and disagreements regarding how they are being enforced. Mayor Stewart declined the request.

Town Manager Report: Town Manager Jane Berry reported:

1. Downtown Colorado Institute workshop was a success. Manager Berry gave thanks to a host of volunteers including Elaine Brett, Mary George, Michael Drake, Annette Pretorius, and Susan Shoemaker for their efforts.
2. A Planning Commission meeting is scheduled for Thursday, August 11, 2016 at 7 PM.
3. A recommendation to cancel the scheduled August 13, 2016 Budget Retreat in light of the necessity to interview and hire an Interim Town Manager.

Motion by Trustee Bradford, supported by Trustee Bookout to cancel the Special Meeting Budget Retreat scheduled for Saturday, August 13, 2016. Motion carried with six (6) ayes and zero (0) nays.

4. Dynamic appraisals continues to work on appraisals for two Town properties.
5. Kate Zachman and Chase Park have made tremendous progress on the record retention project. Town permanent records are organized and searchable.

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

1. Town water plants are all running well. The increased rain has helped to raise the dropping spring levels.
2. Sewer sludge survey has been completed and results are pending.
3. Town Park tree trimming will be complete this week.
4. Benches will be installed in Apple Valley Park soon.
5. Topsoil is being added to the Town Park baseball field so grass can be installed.
6. Sidewalk repair begins next week.
7. The installation of a handicap parking space and sidewalk access near Town Hall is being estimated.
8. Asphalt work with the County will begin in the near future.
9. The Town of Ophir has a road grader for sale that the public works department could use for multiple purposes if it is in good shape. Public works Director Loberg will travel to inspect the grader and will report back to the Board.

Police Department Report: Sergeant Neil Ferguson reported:

1. Report provided in packets.
2. Major crime investigations continue, with multiple cases solved and closing.
3. The police department has not been investigating code enforcement issues due to the high investigation load involving more serious crimes, but plans to begin again in the next few weeks.
4. No incidents noted regarding Pickin in the Park event.

Trustee Bradford requested a presence at the Second and Grand Avenue intersection. Town Manager Berry commended the police department for an extraordinary job well done resolving burglaries as well as creating a presence with business owners.

Sergeant Ferguson is also investigating a wellness program offered through the Town insurance provider CIRSA.

Treasurers Report: Town Treasurer Ross King reported:

1. The approved \$179,000 transfer to COLO Trust was completed, leaving a balance of \$434,000.
2. All disbursements continue to be reviewed.
Reviewed financial monitoring activities with the Finance Committee in the absence of a Town Manager.

Committee Reports

1. Finance and Personnel: Will contact the Interim Town Manager candidates to schedule interviews.

Motion by Trustee Bear, to retain Town Manager Berry on a consulting basis for up to six (6) months to assist the new Town Manager in assuming the roll and to exchange information regarding ongoing projects.

Mayor Stewart recommended the item be placed on an agenda to allow for public awareness and comment.

Trustee Bear withdrew the motion.

2. Public Works:

Motion by Trustee Braford, Supported by Trustee Watson to authorize Public Works Director Loberg to make an offer on the Town of Ophir road grader based on assessment up to \$20,000, contingent upon final Board approval. Motion carried with six (6) ayes and zero (0) nays.

3. Public Safety: A meeting is scheduled with Jeff Wright to begin discussing the Emergency Operation Plan.
4. Governmental Affairs: Nothing to report.
5. Services & Recreation: Nothing to report.
6. Facilities & Development: Trustee Watson attended the Downtown Colorado Institute. Treasurer King inquired about the availability of the Airport Advisory Board member application. Letters of interest are being accepted and advertisement will be out in the next few days.

Minutes

Motion by Trustee Budinger, Supported by Trustee Bradford to approve the Town Board Regular Meeting Minutes as amended for July 26, 2016. Motion carried with six (6) ayes and zero (0) nays.

Motion by Trustee Bookout, Supported by Trustee Budinger to table the Town Board Special Meeting Minutes for July 26, 2016 for clarification from RubinBrown regarding the North Fork airport. Motion carried with six (6) ayes and zero (0) nays.

Motion by Trustee Bradford, Supported by Trustee Budinger to approve the Town Board Special Meeting Minutes as amended for August 4, 2016. 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, in the amounts of \$29,400.71 for accounts payable, \$7,183.74 for payroll taxes, and \$17,182.97.16 for payroll. Motion carried with six (6) ayes and zero (0) nays.

Adjournment

The meeting was adjourned by Mayor Charles Stewart at 10:08 PM

/s/

J. Corinne Ferguson, Town Clerk

/s/

Charles Stewart, Mayor