

**Minutes**  
**Town Board Regular Meeting**  
**Town of Paonia, Colorado**  
**August 23, 2016**

**RECORD OF PROCEEDINGS**

The Regular Meeting of the Town Board of Trustees held Tuesday, August 23, 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  
Sergeant Neil Ferguson arrived at 8 PM  
Finance Officer Cindy Jones  
Town Attorney David Marek  
Treasurer Ross King

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

**Approval of Agenda**

Motion by Trustee Bradford, Supported by Trustee Budinger to amend the agenda correcting Ordinance numbers and removing item #2, Airport Advisory Board Appointment. Motion carried with six (6) ayes and zero (0) nays.

**Announcements**

None

**Visitors**

Elaine Brett was present on behalf of Downtown Colorado Paonia Institute. Ms. Brett provided a summary report for the Institute, which took place August 4, and August 5, 2016. Attendees represented were from both the Western Slope as well as the Front Range.

**Public Hearing – Thliveris Addition Zoning to C-2**

Mayor Stewart opened the public hearing for the Thliveris Addition Zoning at 7:26pm. Town Manager Berry provided an explanation of the process for zoning an addition following annexation stating these facts:

1. The Planning Commission met August 11, 2016 for the purpose of establishing zoning recommendations to the Board for annexed parcels.
2. The Zoning Commission minutes were read for the record.
3. The Planning Commission recommends approval of C-2 zoning for the annexed parcels.

No Board comments submitted.

No public comment submitted.

Mayor Stewart closed the public hearing at 7:30pm.

## Public Hearing – Rowel Parcels Zoning Amendment from I-1 to C-2

Mayor Stewart opened the public hearing for the Rowell Parcels Zoning at 7:30pm.

Town Manager Berry provided an explanation of the process for amending existing zoning and provided these facts:

1. The Planning Commission met August 11, 2016 for the purpose of establishing amended zoning recommendations to the Board for the Rowell parcels.
2. The Zoning Commission minutes were read for the record.
3. The Planning Commission recommends amending the Rowell parcels zoning from I-1 to C-2.

Ron Rowell was sworn in for testimony. Mr. Rowell stated the amended zoning is proper for the parcels in question. Each time a tenant changes at the location a variance process must occur because of the I-1 rules. C-2 zoning is more appropriate for the existing business model.

Board Comment:

Trustee Brunner believes it is appropriate to re-zone to C-2.

Public Comment:

Dorothy Lorig – 212 North Fork Avenue – supports residential use within commercial area. Ms. Lorig believes the re-zoning will bring a stronger feel of residential to the existing neighborhood.

Mayor Stewart closed the public hearing at 7:37pm.

## Public Hearing – Amendment of Section 16-3-70 Schedule of Uses for C-1 and C-2

Mayor Stewart opened the public hearing for the proposed amendment of Section 16-3-70 Schedule of Uses for C-1 and C-2 at 7:45pm.

Town Manager Berry provided a brief explanation of permitted use by right and permitted use by special review.

1. The Planning Commission met August 11, 2016 for the purpose of establishing a recommendation to the Board regarding amending zoning regulations within C-1 and C-2, specifically permitted use by right for dwelling units within commercial zoning.
2. The Zoning Commission minutes were read for the record.
3. The Planning Commission recommends amending Section 16-3-70 Schedule of Uses for C-1 and C-2.
4. All posting and notice requirements were met.

Board Comment:

Trustee Brunner questioned who can request the amendment and the validity of the process utilized for the change.

Trustee Watson questioned why C-1 and C-2 are included in the amendment.

Trustee Bookout questioned if the dwelling unit can be used as a rental or if it is only a dwelling unit for the business owner.

Public Comment:

Mike Jackson – owner of Western Colorado Realty.com – believes there are positive elements to allowing secondary dwelling units within the commercial area, but questions the safety, especially in the downtown area.

Steve Cassard – stated as a retired general contractor who has completed work on Grand Avenue, he is surprised we have not had a fire due to insufficient fire walls and other fire deterrents. Fires are more likely in residential than commercial, and Mr. Cassard believes the risk for a serious fire increases with mixed use.

Mayor Stewart closed the public hearing at 8:02pm.

## **Unfinished Business**

### **Employment of Interim Town Manager**

Mayor Stewart provided a brief history regarding Town Manager Berry's resignation and the Special Meeting for interviews held Monday, August 15, 2016. Dan Dean, former Town Manager for Mead, Colorado was selected as the top candidate for the Paonia Interim Town Manager position.

Motion by Trustee Budinger, supported by Trustee Bookout to go in to executive session following disbursements for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e); and 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. Motion carried with six (6) ayes, and zero (0) nays.

## **New Business**

### **Consideration to Adopt Ordinance 2016-04 – Thliveris Addition Zoning**

Proposed Ordinance 2016-04 was provided in the Board packet. Mayor Stewart read the title heading for the audience.

*2016-04 - AN ORDINANCE OF THE TOWN OF PAONIA, COLORADO PROVIDING FOR THE ZONING OF ANNEXED TERRITORY TO THE TOWN OF PAONIA, COLORADO, KNOWN AS THE THLIVERIS ADDITION AND DESCRIBING THE PROPERTY TO BE ZONED PURSUANT TO THE CODIFIED ORDINANCES OF THE TOWN OF PAONIA, CHAPTER 16 ARTICLE 1 ZONING OF ANNEXED TERRITORY AND CRS 31-12-115 ZONING OF NEWLY ANNEXED LAND.*

Motion by Trustee Budinger, Supported by Trustee Watson to adopt Ordinance 2016-04. Motion carried with six (6) ayes and zero (0) nays.

### **Consideration to Adopt Ordinance 2016-05 – Rowell Parcels Zoning Adjustment**

Proposed Ordinance 2016-05 was provided in the Board packet. Mayor Stewart read the title heading for the audience.

*2016-05 AN ORDINANCE OF THE TOWN OF PAONIA, COLORADO PROVIDING FOR THE AMENDMENT OF ZONING OF THE TOWN OF PAONIA, COLORADO, KNOWN AS THE ROWELL ZONING AMENDMENT AND DESCRIBING THE PROPERTY FOR THE AMENDED ZONING PURSUANT TO THE CODIFIED ORDINANCES OF THE TOWN OF PAONIA, CHAPTER 16 ARTICLE 14 AMENDMENT PROCEDURES.*

Motion by Trustee Budinger, Supported by Trustee Watson to adopt Ordinance 2016-05. Motion carried with six (6) ayes and zero (0) nays.

### **Consideration to Adopt Ordinance 2016-06 – Chapter 16 Town Code – Amendment to Schedule of Uses**

Proposed Ordinance 2016-06 was provided in the Board packet. Mayor Stewart read the title heading for the audience.

*2016-06 AN ORDINANCE OF THE TOWN OF PAONIA, COLORADO PROVIDING FOR THE AMENDMENT OF ZONING OF THE TOWN OF PAONIA, COLORADO, FOR SECTION 16-3-70 SCHEDULE OF USES COMMERCIAL DISTRICTS, DWELLING UNITS AS A SECONDARY USE TO THE BUSINESS USE AS A PERMITTED BY RIGHT USE PURSUANT TO THE CODIFIED ORDINANCES OF THE TOWN OF PAONIA, CHAPTER 16 ARTICLE 14 AMENDMENT PROCEDURES.*

Discussion ensued regarding the implementation of restrictions with the residential permitted use in C-1 and C-2, the benefit of utilizing the special review process to investigate the proposed change in use, and the existing non-conforming uses within the Town.

Trustee Bradford stated that a commercial building that already has a living space would not require any review, while a property that requires alteration will require a building permit and multiple inspections.

Trustee Brunner believes allowing the mixed use in the core commercial area will result in parking congestion and property taxing issues and requires further study.

Mayor Stewart believes this change is an opportunity for the Town to support business. The risk of crime and vandalism drops with a residential presence in the commercial area as well.

Motion by Trustee Brunner, Supported by Trustee Watson to return Ordinance 2016-06 to the Planning Commission for further study. Motion failed with two (2) ayes and four (4) nays from Trustees Bear, Bradford, Bookout, and Budinger.

Motion by Trustee Watson to allow zoning permitted use change in C-2 while C-1 requires a special review.

Mayor Stewart stated he will not accept the motion made by Trustee Watson, but will accept a motion to accept Ordinance 2016-06, which Trustee Watson can move to amend.

Motion by Trustee Bradford, Supported by Trustee Budinger to adopt Ordinance 2016-06 as presented. Motion carried with four (4) ayes and two (2) nays from Trustees Brunner and Watson.

Motion by Trustee Watson, Supported by Trustee Brunner to allow zoning permitted use change in C-2 while C-1 requires a special review. Motion failed with two (2) ayes and four (4) nays from Trustees Bear, Bradford, Bookout, and Budinger.

#### Consideration to Approve Purchase of Road Grader from the Town of Ophir

Public Works Director requests the Board approve the purchase of a road grader for the cost of \$15,000.00, \$700.00 for transport, and up to \$1,000.00 for minor repairs.

Motion by Trustee Bookout, Supported by Trustee Budinger to approve the purchase of a road grader from the town of Ophir for the cost of \$15,000.00, \$700.00 for transport, and up to \$1,000.00 for minor repairs. Motion carried with six (6) ayes and zero (0) nays.

#### Consideration to Approve Amended Contract with C&N Construction for Additional Concrete Work

A handicap ramp will be installed at Town Hall and extra concrete is necessary at the Niagara intersection. The total addition is \$4,300.00.

Motion by Trustee Bradford, Supported by Trustee Budinger to approve the amended contract with C&N Construction in the amount of \$4,300.00. Motion carried with six (6) ayes and zero (0) nays.

#### Consideration to Award Contract for Real Estate Services for Sale of Town Owned Properties

Request for Proposals were sent to multiple real estate brokers. The deadline for submittals was August 19, 2016. Two (2) proposals were submitted from Re/Max Mountain West Realty and Western Colorado Realty.com.

Town Manager Berry stated both firms have a successful track record and are very professional. Either firm will perform well for the Town.

Bob Lario on behalf of Re/Max and Mike Jackson on behalf of Western Realty thanked the Town for the opportunity and answered questions presented by the Board.

Motion by Trustee Bookout, Supported by Trustee Brunner to award contract for real estate to Western Colorado Realty.com. Motion carried with six (6) ayes and zero (0) nays.

Consideration to Approve Large Group Park/Event Application for the Ute Trail Car Club

Evelyn Roseberry and Car Club President Len Krebbs were present on behalf of the Ute Trails Car Club. The club requests permission to use the drive area surrounding Paonia Town Park for the annual car show. No issues noted.

Motion by Trustee Bradford, Supported by Trustee Bookout to approve the Large Group Park/Event Application for the Ute Trail Car Club. Motion carried with six (6) ayes and zero (0) nays.

**Regular Business**

Mayor's Report: Mayor Charles Stewart had nothing to report.

Town Manager Report: Town Manager Jane Berry reported:

1. Recommended Treasurer Ross King coordinate the listing process with Mike Jackson and Western Colorado Realty.com.
2. Recommended the removal of the farm house from the Devaney property. The fire department has been contacted to see if they will burn it down as a training exercise.

Motion by Trustee Bradford, Supported by Trustee Budinger to approve Treasurer Ross King to coordinate with Western Colorado Realty.com regarding the sale of the two (2) Town properties. Motion carried with six (6) ayes and zero (0) nays.

Motion by Trustee Bradford, Supported by Trustee Bookout to market the Croussen property as 15.47 acres with all Farmers Ditch shares owned by the Town. Motion carried with six (6) ayes and zero (0) nays.

3. Public Works Director Loberg is on leave through September 30, 2016.
4. Suggested the Town update the Town Zoning Map.

Town Manager Berry provided an overview of the current budget to actuals and possible upcoming areas of concern. Town Manager Berry has withdrawn interest in being a Town consultant.

Public Works Department Report: Public Works Director Travis Loberg was absent. Town Manager Berry reported:

1. Multiple projects continue.

Police Department Report: Sergeant Neil Ferguson reported:

1. Report provided in packets.
2. An Off Highway Vehicle (OHV) ordinance is being drafted.
3. Marijuana issues, including odor complaints are being addressed. Written complaints and a willingness to testify in court are necessary.
4. Positive feedback was received regarding police availability and presence during Pickin in the Park.

Treasurers Report: Town Treasurer Ross King reported:

1. Disbursements have been reviewed.
2. Proposed DMEA Franchise Agreement regarding Elevate Fiber is with Town Attorney.
3. Recommended Town consider joining Colorado Communications and Utility Association (CCUA).

Motion by Trustee Bradford, Supported by Trustee Budinger to appoint Treasurer Ross King to fill interim position to review disbursements and payroll prior to submittal to the Finance

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

### **Committee Reports**

1. Finance and Personnel: Nothing to report.
2. Public Works: Met on Monday with engineers from WestWater and SGM to discuss upcoming and ongoing projects.
3. Public Safety: Met with Jeff Wright and Sergeant Ferguson. A Disaster Procedure Ordinance needs to be drafted and adopted.
4. Governmental Affairs: Requested the names of interested tree board members be provided.
5. Services & Recreation: Parks Contractor Mike Altenhoffen stated the tree side of Town Park needs aerated.
6. Facilities & Development: Nothing to report.

### **Minutes**

Motion by Trustee Bradford, Supported by Trustee Bear to approve the Town Board Special Meeting Minutes for July 26, 2016. Motion carried with four (4) ayes and two (2) nays.

Motion by Trustee Budinger, Supported by Trustee Bradford to approve the Town Board Regular Meeting Minutes for August 9, 2016. 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 for August 13, 2016. 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 for August 15, 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 \$84,389.46 for accounts payable, \$15,083.63 for payroll taxes, and \$17,264.34 for payroll. Motion carried with six (6) ayes and zero (0) nays.

### **Executive Session**

As voted upon during unfinished business:

The Town Board entered Executive Session at 10:05pm.

The Town Board reconvened the Meeting Session at 10:39pm.

Mayor Stewart stated the names of the participants in the Executive Session being himself Mayor Charles Stewart, Trustee Bradford, Trustee Bear, Trustee Brunner, Trustee Bookout, Trustee Budinger, and Trustee Watson. No concerns were noted from those who participated in the Executive Session.

Motion by Trustee Bradford, Supported by Trustee Bear to authorize Town Attorney to make an offer of employment to Dan Dean pursuant to proposed employment contract at rate of \$40.00 per hour. Motion carried with six (6) ayes and zero (0) nays.

### **Adjournment**

The meeting was adjourned by Mayor Charles Stewart at 10:43 PM

\_\_\_\_\_/s/\_\_\_\_\_  
J. Corinne Ferguson, Town Clerk

\_\_\_\_\_/s/\_\_\_\_\_  
Charles Stewart, Mayor