

**Town Council Regular Meeting**  
**Town of Paonia, Colorado**  
**April 8, 2014**

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Council held Tuesday, April 8, 2014 was called to order at 6:00 p.m. with the Pledge of Allegiance. Those present were Mayor Neal Schwieterman, Trustees Brian Ayers, Eric Goold, Ross King, Amber Kleinman and Sarah Sauter; Attorney David Marek; Chief Scott Leon; Public Works Director Travis Loberg; Finance Officer Cindy Jones; and Deputy Clerk Corinne Ferguson. Town Clerk Barbara Peterson was in the audience.

Mayor Schwieterman determined a quorum was present and proceeded with the meeting.

**Approval of Agenda**

Trustee Goold moved to approve the agenda. Trustee Kleinman seconded and the motion passed unanimously.

**Executive Session – Town Manager**

Trustee Kleinman moved to go into executive session 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. Trustee Sauter seconded the motion. Trustee Ayers asked if the new Trustees who were taking seat later in the evening were now considered essential and would be permitted to attend the executive session. Mayor Schwieterman reiterated Town Attorney Marek's opinion that the new Trustees were not on the Board yet and are not considered essential. The motion was brought to a poll vote with Trustees Ayers and King voting "nay". The motion failed for lack of a two-thirds (2/3) majority.

Mayor Schwieterman adjourned the meeting until 7:00pm.

The meeting reconvened at 7:00p.m.

**Announcements**

Trustee Ayers stated his appreciation for the time served on the Board of Trustees and the current and prior Trustees who made the decision to serve.

**Visitors**

None

**Unfinished Business**

**Town Manager – Offer of Employment**

(Clerk note: Due to the contentious nature of this issue, this section of the minutes lean more toward verbatim, rather than synopsis. – J Corinne Ferguson)

Mayor Schwieterman acknowledged that Justin Clifton and Elyse Ackerman-Casselberry were in attendance. Mr. Clifton, City Manager for the City of Delta, participated as an assessor during the candidate assessments and Ms. Ackerman-Casselberry is the Town's Department of Local Affairs (DOLA) representative. Ms. Ackerman-Casselberry participated alongside the hiring committee during the initial interviewing process. Trustee Goold asked Mr. Clifton and Ms. Ackerman-Casselberry their opinions of the necessity of executive sessions, and was informed that executive sessions can provide an opportunity to better discuss the candidates of which Mr. Clifton and Ms. Ackerman-Casselberry may have future working relationships with. Trustee Goold asked Mr. Clifton his opinion of the assessment center, the transparency of the hiring process, if Mr. Clifton believes the Town of Paonia needs a Town Manager, and how important Mr. Clifton felt a unified Council was, when offering the position to a candidate. Mr. Clifton answered that he believed the assessment center was very

thorough and revealing, and in some cases more in depth than necessary. The process was transparent, offering the public the opportunity to view areas typically not open to the public in more traditional hiring processes. Mr. Clifton is biased as a City Manager to the question of the need for a Town Manager, also stating there are advantages to having a defined administrative leader and believes it is a good idea to pursue hiring a Town Manager. Mr. Clifton and Ms. Ackerman-Casselberry both believe strongly that a unified Board of Trustees can be vital in the hiring process as well as remove the appearance of non-support from Trustees for a candidate offered the position. That possibility can hinder the hiring process as well as the working relationship between the Board and the Town Manager. The advice given to the Board was if there is not a unified consensus it is appropriate to step back and consider the different options so that the Board moves forward in the right direction.

Mayor Schwieterman asked the Board how they would like to proceed. Trustee King moved to table the Town Manager hiring decision until a later date. Trustee Ayers seconded the motion. Trustee Goold stated that he believes voting to table is an indication of no confidence in Ms. Barbara Peterson. The argument that the decision should be delayed because new board members need to "have a say" is not valid, the process has been open to public input and the new Board of Trustees will complete the contract negotiations. Trustee Goold added that he felt Ms. Peterson will not be able to function with new Board members making her job impossible. Since 2006, Ms. Peterson has been functioning in some capacity as the Town Manager, previous Boards and Mayors moved forward with the intention that Ms. Peterson would eventually be the Town Manager, and it is still the right thing to do. Trustee Sauter expressed disappointment that an executive session had not been approved at either meeting and believes a solid conclusion could have been met had the Board voted to do so on either occasion. Trustee Sauter added that she concurred with Trustee Goold's opinion to hire Ms. Peterson.

Mayor Schwieterman asked if Mr. David Bradford, Mr. Charles Stewart, or Ms. Suzanne Watson would like to address the Board on the matter.

Mr. Stewart asked Mr. Clifton and Ms. Ackerman-Casselberry their opinion on leaving the decision of hiring a Town Manager for the new Board. Ms. Ackerman-Casselberry reiterated that it is important for the Board to be united and on the same page. Mr. Clifton added it would be appropriate to wait for the new Board to make the decision. Mr. Stewart responded to Mr. Goold's statement that the intent is to work with whoever has the position of Town Manager. Mr. Bradford agreed with Mr. Stewart, adding that he intends to work with both the Board and staff, but the sitting Board needed to remember that the new Board could make a motion to rescind a job offer, should one be made.

Richard Schmidt requested that the Board stay on point with the motion made and seconded, adding that tabling the decision does not stop the candidates from being candidates, it just slows the rush to make a decision. The motion was brought to vote and passed with Trustees Kleinman and Sauter voting "nay".

### **Additional Business**

**Mayor's Report:** Mayor Schwieterman shared information received during the Municipal Quarterly meeting that could potentially address future capital projects, and a new website has the capability to input building specifications to assess potential for energy savings.

**Public Works:** Director Loberg reported continued work on the Apple Valley Park. Work is scheduled for Wednesday on the Second Street and Main Avenue culvert. Grading the alleys and pothole filling continues. Trustee King requested an update on the Engineering Report for the Two Million Gallon (2MG) water treatment plant and the One Million Gallon (1MG) water storage roof repair. Director Loberg stated the project bid packets have been received but have not been reviewed. The Engineers estimate has been received for the roof repair.

Pete Hylton asked if the Town had any plans to address potential safety issues with the sledding hill in Apple Valley Park or repairing the south side of the river bank that is degrading. Director Loberg will address both items and has the track hoe at the Pan American Road bridge to also address potential blockage issues.

**Police Report:** Chief Leon reported a burglary at the Paonia Library during the early hours of April 4, 2014 that resulted in the loss of approximately seven thousand dollars (\$7,000) of cash and other items. A vehicle was stolen prior to the burglary but is believed to be used in connection with the burglary. Two (2) Paonia Police Officers are investigating the incidents. Discussion continued regarding protocol and what type of information is open to the public during an open investigation. Chief Leon assured the public there is not an increase in the amount of thefts occurring; communities often see thefts ebb and flow. Chief Leon added that items found in and around the stolen vehicle helped to tie the vehicle to the library break-in. Naropa Sabine asked what a community can do to assist the Police

Department and if there were any eyewitnesses to the car theft. Chief Leon stated the community can be helpful by moving slowly and giving information to the police department to handle. The Police Department has begun canvassing the area of the car theft for any witnesses or pertinent information.

Finance Report: Trustee Ayers shared his regret for not realizing there was a problem with the previous Finance Officer and not discovering the theft earlier; although he was not sure of any way the theft could have been discovered sooner.

Parks Report: Trustee Kleinman advised the public to be aware of falling bricks from the Paonia Masonic Lodge building in to Poulos Park. Town staff has contacted the building owners. Mayor Schwieterman notified the Board that while trimming the trees in the Town Park Aspen Tree Services crew located a rotting silver maple tree. The tree presents a real danger in the park and Aspen Tree Services recommended removing the tree as soon as possible, before it began to green. The quote to cut the tree down was twelve hundred dollars (\$1200). Aspen Tree Services will cut the tree down but it is the Town's responsibility to cut the tree up and grind down the stump left behind. Trustee Goold viewed the tree and agrees the tree needs removal. Trustee Kleinman moved to remove the tree and pay the bill associated with the removal. Trustee Goold seconded the motion. Discussion ensued regarding the removal of the cut wood, future tree planting ideas and the tree service contract. Trustee King suggested the upperclassmen of Paonia High School should use the graffiti removal at the Town Park as an opportunity to mentor the lowerclassmen on respecting their community. Mr. Sabine suggested the possibility of offering a place for people to graffiti who consider it an art form. The motion to remove the dying tree was brought to a vote and passed unanimously.

Public Safety Report: Trustees Ayers and Goold had nothing to report.

Street Report: Trustees King and Kleinman had nothing to report.

Water/Sewer Report: Trustees King and Sauter had nothing to report.

Personnel Report: Trustee Sauter had nothing to report.

Minutes:

Trustee Goold moved to accept the minutes for March 25, 2014, as amended. Trustee Sauter seconded and the motion passed unanimously.

Disbursements:

Trustee Ayers moved to pay the bills through April 8, 2014. Trustee Kleinman seconded and the motion passed unanimously.

Mayor Schwieterman thanked Trustees Ayers and Sauter for their service to the Town of Paonia and presented certificates of appreciation to each.

David Bradford, Charles Stewart, and Suzanne Watson were sworn in as Trustees by Town Clerk, Barbara Peterson.

The Regular Meeting of the Town Council held Tuesday, April 8, 2014 continued with the newly sworn in Trustees taking seat. Those present were Mayor Neal Schwieterman, Trustees David Bradford, Eric Goold, Ross King, Amber Kleinman, Charles Stewart, and Suzanne Watson; Attorney David Marek; Chief Scott Leon; Public Works Director Travis Loberg; Finance Officer Cindy Jones; and Deputy Clerk Corinne Ferguson. Town Clerk Barbara Peterson was in the audience.

Mayor Schwieterman determined a quorum was still present and proceeded with the meeting.

**New Business**

Trustee Committee Appointments

Mayor Schwieterman appointed Trustees Bradford and Stewart to the Finance Committee. One member of the Board as well as the Mayor is required to be on the Planning and Zoning (P&Z) Committee. Trustee Goold volunteered to replace former Board member Larry Wissbeck. Mayor Schwieterman appointed Trustee Goold to take seat on the P&Z Committee.

Proclamation – Arbor Day

Mayor Schwieterman read a proclamation declaring April 18, 2014 as Arbor Day and encouraged anyone able to celebrate the day accordingly.

### Fruita High School – Town Park Use

The Fruita Monument High School football team is requesting use of the Teen Center and Town Park, including an overnight stay, Thursday, July 11, and Friday, July 12, 2014. The team enjoys the opportunity to practice on the Town field in the cooler temperatures than Fruita has in the summer. The high school team has been granted the request for the last two years. Mr. Carville was unable to attend but informed Clerk Peterson that the Teen Center approved the use request as long as the Board was in agreement. Trustee Kleinman moved to approve the parks use request. Trustee King seconded the motion. Trustee Goold found several parts of the request confusing and placed a call to the Paonia High School football coach Brent McRae but had not heard back from him yet. Clerk Peterson added that there was time to gather more information if the Board so wished. Trustee Kleinman rescinded the motion to approve. Trustee Goold moved to table until he spoke with Paonia High School football coach. Trustee Bradford seconded and the motion passed unanimously.

### Ordinance 2014-03 – Lease Purchase Agreement – Skid Steer

Mayor Schwieterman read Ordinance 2014-03 title and summary for audience benefit. The skid steer the Town currently owns is old and requires continual, costly repairs. Public Works Director Travis Loberg researched and found a skid steer available to purchase under the Board approved budget amount. Trustee King moved to approved Ordinance 2014-03. Trustee Goold seconded the motion. Trustee Stewart stated that it is problematic to approve any ordinance or request without complete documents and adequate time to review the packets. Trustee Stewart added that reasons such as those stated are reason enough for him to vote “no” for any request. Clerk Peterson stated that the council packets are available Friday afternoon; allowing four (4) days for review prior to the Council meeting. The loan documents are still being processed although the draft documents have been reviewed by the Town attorney. Clerk Peterson offered to provide the draft loan documents to the Board.

Trustee Bradford asked what the cost of the skid steer is. Director Loberg stated the total cost over a five (5) year loan period is thirty-eight thousand dollars (\$38,000) used, while the retail value is ninety-seven thousand dollars (\$97,000) new. Discussion ensued about the necessity for the purchase, whether the Town was aware of the Colorado Multiple Assembly of Procurement Officials (MAPO), where government entities sell and trade equipment, and if the purchase agreement was time sensitive. The vote tied with Trustees Goold, King, and Kleinman voting “aye” and Trustees Bradford, Stewart, and Watson voting “nay”. Mayor Schwieterman broke the tie with an “aye” vote and the motion carried.

### Resolution 2014-06 – CRWDPA Leveraged Loan

Mayor Schwieterman read Resolution 2014-06 title and summary for audience benefit and provided a brief history on the Colorado Department of Public Health & Environments (CDPHE) reclassification of the Town water from ground water under influence (GUI) to ground water under direct influence (GUDI).

8:18p.m. Trustee Goold left the meeting.

8:20p.m. Trustee Goold returned.

Mayor Schwieterman continued, stating that a notice of non-compliance (18 month letter) triggered the necessity to upgrade the Two-Million Gallon (2MG) water treatment facility. Multiple grants, loans, and funding opportunities have been applied for and received, totaling five-million, four-hundred thousand dollars (\$5,400,000). Different agencies fund different parts of the project. During the last Town Council meeting the Board approved retaining bond counsel, who specializes in the issuing of governmental bonds. The bonds are issued on the behalf of the Town of Paonia by the Colorado Water Resources Development and Power Authority (WPA). Discussion commenced regarding receiving more background information, the time sensitive nature of the project, and a financial summary prepared by Finance Officer Cindy Jones. Trustees Kleinman and King recommended that newly seated Board members trust the work reviewed by the Board prior, and recommend that the resolutions receive the Boards full support. Clerk Peterson reiterated than any changes to the scope of work voids the project funding that is in place and requires the entire process to be started again.

Richard Schmidt requested the Town complete a water audit to locate unauthorized water taps and requested a copy of utility bills to compare to his list of taps for each parcel. Town Attorney Marek and Clerk Peterson responded that there are privacy laws that prohibit giving personal information out.

Ron Rowell added that he understands of the learning curve for new Trustees, but the issue presented deals with the integrity of the Towns water system and needs to be addressed. The motion carried with Trustee Bradford voting “nay”.

Resolution 2014-07 – CRWDPA Principle Forgiveness

Mayor Schwieterman read Resolution 2014-06 title and summary for audience benefit. Trustee Stewart acknowledged the efforts of the Board, and Town Attorney Marek's review of the resolution and supporting documents adding that in the future he will not vote to approve any action that appropriate time to review all documents has not been given. Trustee Watson added that the Town needed to let the State know to be more prompt. Mayor Schwieterman explained that the CDPHE, as with other agencies, have been affected by budget cuts and lay-offs, but the Town suggestions for the process will be made at a later date. Trustee Bradford supports the concept of the resolution but will not vote to accept having not reviewed all documents. Clerk Peterson suggested that an abstention instead of a "no" vote may better reflect a Trustee position when the Trustee is not against the project itself. The motion passed with Trustee Bradford voting "nay" and Trustee Watson abstaining.

Clerk Peterson addressed the Board referencing a local news article reporting an allegation against the office staff regarding the electoral process; and individuals having been discouraged from participating in the election. Trustee Watson stated the comment she made at the previous meeting reflected Trustee Watson's experience with Clerk Peterson, but Trustee Watson was not discouraged from the interaction, but encouraged to run for a trustee seat.

8:52 p.m. Meeting adjourned.

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Deputy Town Clerk, Corinne Ferguson

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Mayor, Neal Schwieterman