

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

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Council held Tuesday, July 8, 2014 was called to order at 7:00 p.m. with the Pledge of Allegiance. Those present were Mayor Neal Schwieterman Trustees Eric Goold, Ross King, Charles Stewart, Amber Kleinman, David Bradford and Suzanne Watson; Interim Town Manager Steve Rabe; Chief Scott Leon; Public Works Director Travis Loberg; Finance Officer Cindy Jones; Deputy Clerk Corinne Ferguson; and Town Clerk Barbara Peterson.

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

**Approval of Agenda**

Trustee Bradford suggested the agenda reflect the correct date. Trustee King moved to approve the agenda as amended. Trustee Stewart seconded and the motion passed unanimously.

**Announcements**

None

**Visitors**

None

**Unfinished Business**

**Ordinance 2014-04 - Codification**

Mayor Schwieterman noted there was a work session tonight and another work session is scheduled for 6:00 p.m. before the next regularly scheduled Board meeting.

**New Business**

**Third Street Bistro – Liquor License Renewal**

Linda M. Little was present. Ms. Little is requesting the renewal of a hotel/restaurant liquor license for the Third Street Bistro located at 212 Third Street. Chief Leon indicated no issues. Trustee King moved to approve the liquor license renewal as presented. Trustee Goold seconded. During discussion, it was noted the renewal fee was attached to the application. Motion was brought to a vote and passed unanimously.

**Health Insurance – Agent of Record**

Finance Officer Cindy Jones indicated that due to the Affordable Care Act, the Town's health insurance rates were due to be raised significantly and the current plan discontinued through the current agent, Gary Schoendeck. The proposed agent, David B. Golenda, has found a way to keep the current plan for another year. Rates will still be increased, although not as much as Mr. Schoendeck had indicated. Trustee Stewart move to approve David B. Golenda as the new Agent of Record. Trustee Kleinman seconded and the motion passed unanimously.

**Ordinance 2014-06 – Retail Marijuana Sales**

Mayor Schwieterman read a memo from Manager Rabe recommending the Town participate in a special election in November to determine whether marijuana establishments should be permitted, and suggests ballot wording in the proposed ordinance. Mayor Schwieterman read the ballot wording as proposed: "SHALL THE ESTABLISHMENT AND OPERATION OF RETAIL MARIJUANA CULTIVATION FACILITIES, RETAIL MARIJUANA PRODUCT MANUFACTURING FACILITIES, RETAIL MARIJUANA TESTING FACILITIES AND RETAIL MARIJUANA STORES (COLLECTIVELY CALLED "RETAIL MARIJUANA ESTABLISHMENTS") BE PERMITTED IN THE TOWN OF PAONIA, COLORADO SUBJECT TO THE REQUIREMENTS OF THE COLORADO RETAIL MARIJUANA CODE AND REGULATIONS TO BE ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA?"

YES \_\_\_\_\_ NO \_\_\_\_\_”

Trustee Bradford noted the question is inclusive and includes cultivation facilities. The terms used in the ballot language are what the State uses in its definitions. Manager Rabe advised that the Town cannot use regulations to prohibit certain types of establishments if approved by the voters. If the Board would like to prohibit one or more aspects of the retail marijuana industry, then the ballot language needs to reflect that and this is the time to change the language. The intent of Ordinance 2013-02 is being followed, and the timing is tight for a coordinated election. Steve Keenan noted that data is surfacing showing a large percentage of sales at retail marijuana shops are by tourists. Medical marijuana pricing is very different from retail pricing. After discussion regarding whether the ballot language is deceptive or not, Trustee King moved to approve Ordinance 2014-06 as presented. Trustees Goold and Kleinman seconded. During discussion, it was determined that the ballot questions could be divided into 4 different questions, but Attorney Marek advises against that. Jeff Wobig was adamant that the wording is purposefully manipulative. It was explained that the ballot wording is consistent with State definitions and if the Town uses terms different than the State, then the Town would need to provide those definitions. Margot Richardson suggested the Town start with just retail storefronts and then phase in other aspects of the industry. According to the existing language, a wholesale business would be allowed. Clerk Peterson explained the variables of election pricing. Motion was brought to a vote. Trustees Goold, King and Kleinman voted "aye". Trustees Bradford, Stewart and Watson voted "nay". Mayor Schwieterman broke the tie voting "aye" and the motion passed.

#### Resolution 2014-09 – Special Election

Resolution 2014-09 authorizes a special election to be conducted by mail ballot through an intergovernmental agreement with Delta County. Trustee King moved to adopt Resolution 2014-09 as presented. Trustee Goold seconded and the motion passed unanimously.

#### Ordinance 2014-07 – Retail Marijuana Excise Tax

Mayor Schwieterman read the ordinance summary for visitor benefit. The ordinance would provide for an additional tax if the voters decide to allow retail marijuana in Paonia. Attorney Marek noted that he has done further research on the topic. Because Paonia is a statutory town, the first part taxing unprocessed retail marijuana (wholesale) is in conflict with sales tax ordinances. If there was a tax just on the retail sales, which would be in conformance with sales tax laws. If the Town looks at an occupational tax, with a per transaction fee, there could be one for retail and one for wholesale transactions. The Town will have to come up with a procedure or method of collection, because the State will not collect those taxes for the Town. The Town would also be able to impose operating fees, which are not taxes and not subject to voter approval, and could be address in a regulatory ordinance. Manager Rabe noted the Town does not have any comparables for the revenue, and the limits were based on best guess. If the Town guesses too low, then monies will need to be refunded; if guess too high, then it may scare voters. Trustee Stewart voiced concerns of deception and hoped the Town would find a better way to have an objective number. Trustee Bradford moved to table this item to have staff research and revisit. Manager Rabe noted that if the ballot question from Ordinance 2014-06 passes, then Paonia would receive money from the State, to be deposited into the General Fund. The Town does have the right to specify how those funds will be used. Mayor Schwieterman reiterated that the Town would need to develop a method of collection, which may impose a large time commitment for staff. Trustee Stewart clarified that, depending upon the number of establishments in Paonia; the Town may or may not be able to disclose how much revenue comes in from marijuana sales due to the personal nature of sales tax reporting. Trustee Watson read the City of Denver's ballot question. Trustee King seconded Trustee Bradford's motion. Discussion regarding the ballot and wanting more time ensued. Trustee King think that the Town should be able to cover costs to administer, not create a means of creating revenue. Steve Keenan suggested the Town run a retail store. Motion was brought to a vote and passed unanimously.

#### Additional Business

Mayor's Report: Mayor Schwieterman had nothing to report. Mr. Bob Bushta noted Cherry Days was very successful this year. The extreme zone was brought in to appeal to the teen age group. Costs were covered and although, the final tally has not been calculated, Mr. Bushta is fairly certain the festival ended in the black. There were concerns regarding trash that the Committee will work out with the Town.

Town Manager: Manager Rabe submitted a written report. Manager Rabe scheduled a meeting with the Personnel Committee for Tuesday at 10:00 a.m. to finalize job descriptions. Manager Rabe had also submitted a search process for a permanent Town Manager along with an estimated timeline. Financials have been reviewed and the Town is in trouble. A permanent Town Manager could be in place by Thanksgiving, but the process will cost an estimated \$3,000.

Public Works: Director Loberg reported being prepared for Cherry Days. A leak at one of the springs is being addressed. The department continues work on the Apple Valley Park path. Director Loberg has not received any word on the Environmental Assessment for the 2MG water treatment project.

Police Report: Chief Leon submitted a written report. Chief Leon said the thefts and forgeries were for small amounts of money.

Finance Report: Trustee Bradford and Stewart continue to meet weekly to review financials.

Parks Report: Trustees Watson and Kleinman had nothing to report.

Personnel Report: Trustees Goold reported the Committee met with Manager Rabe regarding the hiring process and timeline already summarized. The Personnel Manual needs several updates already and will be amended. The Committee will also be working on job descriptions to reflect more specifics.

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

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

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

Minutes:

Corrections noted. Trustee King moved to accept the minutes of June 24, 2014 as amended. Trustee Goold seconded and the motion passed unanimously.

Disbursements:

Trustee Stewart moved to pay the bills through July 8, 2014. Trustee Bradford seconded and the motion passed unanimously.

Mr. Bob Bushta announced on behalf of the Teen Center Board that the Center received a grant in the amount of \$3500 to replace eight (8) out of the nine (9) windows. The Teen Center will pay for the replacement of the ninth window. A discount was received from Dependable Lumber and the work will be completed in August.

8:59 p.m. Meeting adjourned.

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Town Clerk, Barbara Peterson

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Mayor, Neal Schwieterman