

**Town Council Regular Meeting**  
**Town of Paonia, Colorado**  
**July 9, 2013**

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Council held Tuesday, July 9, 2013 was called to order at 7:04 p.m. with the Pledge of Allegiance. Those present were Mayor Neal Schwieterman, Trustees Amber Kleinman, Brian Ayers, Eric Goold, Ross King, and Larry Wissbeck; Chief Scott Leon; Public Works Director Travis Loberg; Finance Officer Cindy Jones; Attorney James Briscoe; and Town Clerk Barbara Peterson. Trustee Corinne Ferguson was absent.

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

**Approval of Agenda**

Mayor Schwieterman noted that there was a request to indefinitely table the Jackson – Minor Subdivision Request at the applicant's request. Trustee Wissbeck moved to approve the agenda as amended. Trustee Goold seconded and the motion passed unanimously.

**Announcements**

- None

**Visitors**

None

**Unfinished Business**

**Employee Retirement Plan**

Mayor Schwieterman noted that Trustee Ferguson was not available due to her son's college orientation, but did submit a one-page summation. Mayor Schwieterman indicated Attorney Briscoe provided an opinion, and staff has endorsed Mutual of Omaha (MoO). Trustee Wissbeck noted that when the committee chose MoO, the Town could come into compliance with the federal government for not much money. As it turns out, MoO was unaware of what they were saying yes to, and it will cost the Town almost \$4,000, which is comparable to other plans submitted. Trustee King voiced his confusion regarding the Mesirow agreement, and the designations of the administrator and the financial advisor. Dolly Schaub will be part of the team that advises the town and MoO will designate their representative. Trustee Goold expressed satisfaction with the summation. The Mesirow agreement were not in the packets for Council to review and Trustee King will not support this. The current retirement plan is a money purchase plan and the new one will allow for employee contributions pre-tax. Mayor Schwieterman said that having been a participant, the current plan is unsatisfactory. The pre-tax status changes what the Town pays in to payroll taxes for the mutual benefit of the Town and the employees. Trustee Goold moved to approve the Mutual of Omaha employee retirement plan as presented. Trustee Wissbeck seconded and the motion passed with Trustee King voting "nay".

**New Business**

**Resolution 2013-06 – 2012 Budget Amendment**

Mayor Schwieterman read the resolution title for visitor benefit. Finance Officer Jones noted the original budget was completed at the end of 2011, but did not have prior year-end fund balances. When the budget was compiled for 2013, an attempt was made to guesstimate those balances. After the audit, fund balance corrections were made to bring in line with the audit. Auditor Pete Blair noted the beginning balances were distorted due to certain situations and these corrections clean up those prior errors. Trustee Wissbeck noted the lack of a good set of books has caused the Town to pay federal fines. Finance Officer Cindy Jones and Clerk Peterson have worked for an entire year trying to get the books in order. There is a surplus of \$2.5 million. Auditor Blair noted the Town has about a year in cash reserves, leaving the Town in good financial condition. It was noted that although \$2.5 million sounds like a lot of money, \$300,000 was spent of the sewer repair and paving down to the

library, and the Town is facing a \$5.5 million water improvement project. Having healthy fund balances helps other agencies look favorably on Paonia for funding requests. Trustee Ayers moved to approve Resolution 2013-06 as presented. Trustee Wissbeck seconded. Discussion regarding the discrepancies ensued. Auditor Blair noted section two of the resolution is not necessary, and the differences amount to \$500,000. The State is concerned about expenditures, not revenues. Trustee Kleinman moved to amend the main motion to strike section 2 of the resolution. Trustee Goold seconded and the motion passed unanimously. The main motion was brought to a vote and passed unanimously.

#### Audit - Presentation

Auditor Pete Blair was present. Auditor Blair provided a synopsis of the budget, and thanked Council for due diligence in changing internal controls, as well as Finance Officer Jones for making his job much easier with fewer adjustments. GASB 63 and 65 affect the budgeting process and Auditor Blair will get with Finance Officer Jones later to discuss in detail. Pages 3 through 11 summarize everything. The investment income has increased and the policy does align with state statutes. Pages 31 and 32 list the Town's few debts. The Town is in good financial shape. Auditor Blair is pleased with a three-year capital layout. Trustee King would like to see an amendment reflecting legal action regarding the criminal case. Auditor Blair will show those amounts in a footnote. Council concurred to have the Finance Committee work with Auditor Blair to decide appropriate funds have the theft reflected against. Trustee King moved to accept the audit as amended. Trustee Ayers seconded and the motion passed unanimously.

#### Federal Oil and Gas – Withdrawal Request

Pete Kolbensschlag, Jim Ramey and Sarah Sauter were present. Mr. Kolbensschlag indicated that this letter is asking Senator Bennet to start a conversation to provide a permanent solution to protect the valley from oil and gas development. Local support is crucial for the request. Tom Stevens, former resident of Weld County has seen the effects of drilling and is appreciative that Paonia has such informed Council. Trustee Goold noted this letter is the culmination of many months of work. Last month, Trustee Goold had gone to Washington D.C. to visit Senator Bennet and noted Senator Bennet was in Paonia last weekend. Mary DiFranco supports the request. Brent Hellickson owns a winery on Garvin Mesa and understands from the Senator that it is not unreasonable to request protection of the areas land characteristics. The letter is not asking for anything other than oil and gas withdrawal, not coal. This request will not affect methane capturing at the mines. Mr. Kolbensschlag noted there is a draft bill for the Thompson Divide and one from Gunnison County and this is a gentle reminder to keep Paonia included in the conversation. Trustee Goold moved to have Mayor Schwieterman sign the letter to Senator Bennet as presented. Trustee Kleinman seconded and the motion passed with Trustee Ayers voting "nay".

#### Resolution 2013-07 – Special Election

Mayor Schwieterman read for visitor benefit. This resolution determines a need for a special election and authorizes the Clerk to enter into an intergovernmental agreement for a mail ballot election via Delta County in November. The only question on the ballot is to de-Bruce from mill levy restrictions. Trustee King moved to adopt Resolution 2013-07 as presented. Trustee Ayers seconded and the motion passed unanimously. Mayor Schwieterman noted there has been some discussion on wording. In an improving economy, the Town could be put in a situation where more money could be collected. The wording is as follows: WITHOUT INCREASING ANY TAX RATE OR IMPOSING ANY NEW TAX, SHALL THE TOWN OF PAONIA BE AUTHORIZED TO COLLECT, RETAIN AND SPEND ALL REVENUES, INCLUDING GRANT FUNDS AND IMPACT FEES IT RECEIVES ON AND AFTER JANUARY 1, 2014 AS A VOTER APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION (TABOR), WITH ANY SUCH REVENUES COLLECTED, RETAINED OR SPENT IN EXCESS OF THE LIMITS SET FORTH IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION TO BE USED FOR LAW ENFORCEMENT, TOWN ROAD AND BRIDGE IMPROVEMENTS AND MAINTENANCE, AND PUBLIC HEALTH AND HUMAN SERVICES PURPOSES? [ ] YES [ ] NO  
Trustee King moved to adopt the ballot wording as presented. Trustee Kleinman seconded and the motion passed unanimously.

#### Retail Marijuana

Mayor Schwieterman indicated there was a consensus at the last work session to move forward with ballot wording. Since then, Attorney Briscoe provided updated information indicating that a ballot question may only be submitted to the voters in even numbered years. The choices for the mean time include either establishing a moratorium or doing nothing. The majority of Council would like to have the voters decide on the marijuana issue because the last town vote was very close. If the Town does not have a moratorium nor regulations in place, then the state could potentially authorize licenses under state regulations. Temporary rules could change and the possibility exists that the state may issue a

license and the voters vote it down, making the new license holder close the business. Suzanne Watson is in favor of the moratorium. Mary DiFranco is in favor of allowing licenses to be issued. Brent Hellickson voiced support for the moratorium. Bob Penetta thought the town was broke. Mr. Penetta came to town and was ticketed for going 13 miles over the speed limit. Mr. Penetta also asked why the road was not finished for Cherry Days. If the town does not need the tax revenue, then earmark it for education. Mayor Schwieterman noted the speeding ticket was not written for revenue. Officers are responding to complaints about speeding in town. The Third Street repair was for a sewer line that broke, resulting in digging up the bulk of the street. Council chose to repair with concrete. The break was unfortunate timing. Jere Lowe noted he does a lot of consulting on the marijuana issue and offered services. Mr. Lowe presented the argument that the marijuana market already exists and in the last election, voters from this county overwhelmingly approved of Amendment 64 with 64% of the votes. Suzanne Watson would like to see an ordinance to vote on, like the medical marijuana vote. Delta County, Crawford, Cedaredge and Orchard City all have moratoriums in place. Hotchkiss is in process of determining to apply a moratorium or not. Mr. Lowe submitted a white paper (informational sheet) for Council consideration. Trustee Goold moved to do nothing. Trustee Kleinman seconded. Discussion regarding regulation specifics ensued. A conversation would need to take place regarding specifics. There is no deadline to establish regulations. Doing nothing means that the town will wait to put a ballot question to the voters in November 2014. A moratorium could also be put in place at any time. Motion was brought to a vote and passed with Trustee Ayers voting "nay".

### **Additional Business**

**Mayor's Report:** Mayor Schwieterman reported receiving a thank you from the Mountain Harvest Festival for the Town donation. Dave Noe of the Colorado State Geological Survey is scheduled to meet with the mayor tomorrow morning. Mayor Schwieterman and Clerk Peterson went to the Gunnison Basin Roundtable screening meeting for funding request on the upper treatment water system project. The meeting resulted in an application amendment and will be resubmitted. Different funding processes are in play and multiple meetings are scheduled for screening. The town should have decisions on all the funding requests by December.

**Public Works:** Public Works Director Loberg reported the Third Street repairs are going well, with the last section being poured next Tuesday. The curing compound being used on the concrete is not going into the sewer, nor is it toxic. A MSDS (material safety data sheet) is available for review.

**Police Report:** Chief Leon reported no major crimes over the holiday. Chief Leon reiterated a request to meet regarding noise complaints. Council noted that Officer Rogers gave another ticket over by the park, noted on the Paonia Message Board. It was nice to see many comments in favor of Officer Rogers and the Police Department in general for doing their jobs.

**Finance Report:** Trustee Wissbeck reported the town books are in good order.

**Parks Report:** Trustees Kleinman and Goold reported a future meeting with the School District. Mayor Schwieterman requested that a meeting regarding special events happen sooner than later so event planner may budget for expenses.

**Public Safety Report:** Trustees Ayers had nothing to report.

**Street Report:** Trustee King had nothing to report.

**Water/Sewer Report:** Trustee King had nothing to report.

**Personnel Report:** Trustee Wissbeck had nothing to report.

### **Minutes:**

Corrections noted. Trustee Wissbeck moved to approve the minutes of June 11, 2013 as amended. Trustee Kleinman seconded and the motion passed unanimously. Corrections noted. Trustee Kleinman moved to accept the minutes of June 25, 2013 as amended. Trustee Wissbeck seconded and the motion passed unanimously.

Disbursements:

Trustee Wissbeck moved to pay the bills ending July 9, 2013. Trustee Ayers seconded and the motion passed unanimously.

8:58 p.m. Meeting adjourned.

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Town Clerk, Barbara Peterson

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Mayor, Neal Schwieterman