

Town Council Regular Meeting
Town of Paonia, Colorado
July 23, 2013

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Council held Tuesday, July 23, 2013 was called to order at 7:04 p.m. with the Pledge of Allegiance. Those present were Mayor Neal Schwieterman, Trustees Corinne Ferguson, Amber Kleinman, Brian Ayers, Eric Goold, Ross King, and Larry Wissbeck; Chief Scott Leon; Public Works Director Travis Loberg; Finance Officer Cindy Jones; and Town Clerk Barbara Peterson.

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

Approval of Agenda

Trustee Ferguson moved to approve the agenda as presented. Trustee King seconded and the motion passed unanimously.

Announcements

None

Visitors

Richard Schmidt noted concern that the Riverbank Neighborhood will overload our water system. Mr. Schmidt requested a list of all water taps and location addresses. He questioned whether there was an accounting of total available taps and what would happen if we were to exceed the amount available. Mayor Schwieterman indicated before Town made taps available to the Riverbank Neighborhood, engineering completed a study to determine how many taps were available. When the State Health Department requested the half-million gallon reservoir be bypassed, former Trustee Weber calculated the leak rate equaled 240 taps. Should the Town receive full funding on the proposed two-million gallon (2MG) water treatment project, the upgrades will allow more processing at the upper system. Richard Schmidt stated his opinion that it is widely known that there are illegal taps and quoted a number of 50, given to him by former Trustee Weber. Taps are paid for up front and if accessory dwelling units (ADU) are not addressed in the current land development regulations (LDR) then language and regulations regarding them need completed unless the LDR is updated prior to bring all in to compliance. Mr. Schmidt stated that the Town's water is being stolen. Trustee Ferguson reiterated that all water that passes through the meter is paid for by consumers. Trustee King stated this was a new issue to him and requested that Mr. Schmidt meet with the water committee to discuss further. Trustee Wissbeck questioned whether free water or free taps were being given, and if it were, it needed to be addressed.

Unfinished Business

None

New Business

Thomas Waldo's – Liquor License Renewal

Aaron Papke was present. Thomas Waldo's is requesting the renewal of a tavern liquor license for the property located at 240 Grand Avenue Basement. Mr. Papke noted adjustments had been made to ensure serving underage patrons would not happen again. Chief Leon stated there had been several unsubstantiated reports including fights that were not reported, but lacked evidence for charges. Trustee King moved to approve the liquor license renewal as presented. Trustee Goold seconded, and the motion passed unanimously.

Chesnik – Civil Action

Mayor Schwieterman gave a brief history of previous discussions had by council. No decisions had been made while the outcome of the criminal case was pending. \$393,000 was ordered in restitution at sentencing of the criminal case. Any insurance claim as well as Internal Revenue Service (IRS) debt for non-payment of taxes would preclude any civil restitution awarded to the Town. Trustee Wissbeck understood that Attorney Briscoe was compiling a final figure of all funds believed to be stolen and then would be filing a civil action. Trustee King stated it is a matter of principle to file civilly for remaining funds believed to be stolen. More money than the restitution awarded were embezzled and it is the responsibility of the Council to provide direction on how to proceed. Over \$88,000 in Town costs was incurred during the theft investigation. Further discussion ensued about whether the civil suit will garner any funds or if the Town would be spending more money without any return. Trustee Wissbeck reiterated he would like to see a total figure of the monetary amount the Town has been damaged, including personnel time and legal costs. There is no point litigating to make a point if the Town will not be able to recover the funds spent. Mayor Schwieterman stated he hates to spend more of Town funds to go after something we may not get, and it may behoove the Council to have further discussion with Attorney Briscoe. Trustee Ayers stated the Town should go to court as another way to provide closure. Daphne Sloane, with experience in both forensic and fraud accounting stated that she agreed it was a matter of principle; teaching moral lessons are difficult and felt that a civil judgment on top of the criminal judgment was an exclamation point that sometimes lasted longer on record than a criminal outcome. Ms. Sloane was happy that jail time was attached to Ms. Chesnik's sentencing and offered to assist the Town with evaluating the cost/reward of further litigation. Trustee Wissbeck moved to table until further information was available. Trustee Ferguson seconded. Trustee King stated this will go on week after week and that Council needed to act in a timely fashion. Attorney Charles Stewart questioned accountability for where the funds were used. Mr. Stewart stated that a civil action may be used to obtain that accounting. Mr. Stewart questioned whether there were funds or assets that had been transferred to a third party that could be collected. Trustee Wissbeck stated that at court, the Judge also was uncertain of where all the funds went. Some were disclosed to have been used for home remodeling, shopping, while purchasing nothing of real value. Trustee Wissbeck further stated that the matter had been looked in to and the funds had been spent frivolously. Motion passed with Trustees Ayers and King voting "nay".

Trustee – Resignation

Trustee Ferguson submitted a letter of resignation read by Mayor Schwieterman effective July 31, 2013 as she is moving out of Town limits. Mayor Schwieterman stated Trustee Ferguson will be missed; she had the longest tenure on the water committee and should expect calls in the future. Mayor Schwieterman went over the options to fill the seat until the next regular election in April 2014. Council must decide to appoint a person via letters of interest, hold a special election, or do nothing and let the County decide for the Town. Conversation will begin at the next meeting. Trustee King thanked Trustee Ferguson for her dedication to the community and her actions were always intentional and exemplary. Trustee Wissbeck concurred, as did the audience present with a round of applause.

Additional Business

Mayor's Report:

The Colorado Municipal League (CML) newsletter announced State adopted emergency rules for retail recreational marijuana in effect. According to the Department of Revenue (DOR), towns that do not have a moratorium established, applicants will be eligible to apply for retail licenses effective January 1, 2014. Discussion is needed on how the Town plans to address this. A copy of the letter will be supplied for the Council. Delta County has been declared a drought disaster by the federal government but he is unclear what that will mean for the Town. Advertisement for the Deputy Clerk position closes Wednesday, July 24, 2013 at 4:30 p.m. Some interviews have been conducted, and the office is hopeful to have position filled by August 1, 2013. Per the Personnel manual, a grievance committee for personnel appeals needs to be filled. Carol Kwiatkowski graciously agreed to be the citizen representative. The request for a personnel nomination will be included with this week's payroll. A special meeting will be held Monday July 29, 2013 at 10:00 a.m. for a special event permit. The fifth Tuesday of the month made the meeting necessary to comply with posting and submitting time requirements for the event.

Public Works:

Public Works Director Travis Loberg updated council on the Third Street repair project. The final pour was completed July 22, 2013 and the road should be re-opened by Friday. Radio read meters continue to be installed as time permits. A culvert has rusted through causing the road to begin to give way on 2nd street and Niagara. Loberg is looking for direction from Council on how to proceed with addressing the issue. Trustee King inspected the area with Director Loberg prior to the meeting and

believes until the culvert is excavated it is impossible to know the true condition. The estimated cost to repair is \$30,000, and was not included in the 2013 budget. Trustee Goold spoke to citizens about the problem and it makes sense to find out the extent of it. Mayor Schwieterman applauded the efforts of Council and staff to have the problems fixed correctly on past projects and suggested the Town find the money in the budget to do the same with this one. Council concurred.

Police Report: Chief Leon reported an influx of animal control calls. The department is conducting a speed study on the newly concreted area of Third Street. Chief Leon plans to offer a speed recommendation once the study is complete. Chief Leon met with Trustees Goold and Ayers in response to noise complaints and is trying to work out a plan on how to address them.

Finance Report: Trustee Wissbeck had nothing to report.

Parks Report: Trustee Goold reported the School District parks use agreement is being reviewed by legal. A meeting regarding park fees took place and was very productive. Parks committee is looking for input from the public.

Public Safety Report: Trustees Ayers had nothing to report.

Street Report: Trustee King reiterated the Second Street culvert issue.

Water/Sewer Report: Trustee Ferguson had nothing to report.

Personnel Report: Trustee Wissbeck informed Council that the Clerk had requested previously and it was not dealt with then because of the pending Town Manager discussions. Trustee Wissbeck proposed a raise be given based on the additional duties taken on by the Clerk, continued education and graduation with her M.A. in Political Science, and her sterling job with the grants process. Trustee Wissbeck proposed \$56,000 a year retroactive for the current year with an \$18,000 budget impact. Errors were discussed with the math computation and the discussion was tabled until the next meeting. Trustee King directed staff to participate in the municipality salary survey.

Minutes:

Corrections noted. Trustee King moved to approve the minutes of July 9, 2013 as amended. Trustee Goold seconded and the motion passed with Trustee Ferguson abstaining.

Disbursements:

Trustee Wissbeck moved to pay the bills ending July 23, 2013. Trustee Ayers seconded and the motion passed unanimously.

8:07 p.m. Meeting adjourned.

Town Clerk, Barbara Peterson

Mayor, Neal Schwieterman