

Town Council Regular Meeting
Town of Paonia, Colorado
August 12, 2014

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Council held Tuesday, August 12, 2014 was called to order at 7:00 p.m. with the Pledge of Allegiance. Those present were Mayor Pro-Tem Charles Stewart, Trustees Eric Goold, Ross King, Amber Kleinman, David Bradford and Suzanne Watson; Attorney David Marek, 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 Neal Schwieterman was absent.

Mayor Pro-Tem Stewart determined a quorum was present and proceeded with the meeting.

Approval of Agenda

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

Announcements

None

Visitors

None

Unfinished Business

Ordinance 2014-04 - Codification

Mayor Pro-Tem noted there was a work session tonight. At this point, the Board has reviewed the entire code. It is intended that in the future, the Board will pass the existing code and have another ordinance adopting the various amendments that have been proposed and agreed upon. The budget was also discussed at the work session with presentations by department heads regarding capital requests for 2015.

Ordinance 2014-07 – Retail Marijuana Tax

Mayor Pro-Tem Stewart noted the Board has already passed the ballot wording to ask voters if retail marijuana should be allowed in Paonia. The next question would ask if the voters want to add an additional tax on sales/transactions. One of the issues was the TABOR limit noted in the ordinance for the first year, originally set at \$200,000. Other aspects to be discussed is what kind of tax; sales, occupational or a combination thereof, and if so, should those funds be allowed to go directly into the General Fund or be set aside for a specific purpose. Town Manager Rabe indicated that through staff research with other communities, the methodology used to obtain that first year TABOR number resulted in no fixed formula to use. Some municipalities have medical marijuana sales on which to base their best guess. The Town Manager and Town Attorney agree that the number could be at \$50,000, but it could be higher. The Town does not want to make the amount so high that people will believe the Town will actually make that amount, but do want to get into a refund situation either. Manager Rabe noted that demographics are different between communities, and sales around the state are generating less than half of what was anticipated. The Board concurred on the \$50,000 amount for the ballot question. Sales tax could be imposed on retail transactions, but not wholesale transactions. Occupational taxes or fees could be imposed with a set amount per transaction at both the retail and wholesale level. There are already limits in place on how much someone may purchase. Discussion regarding weights, oils, edibles and tinctures ensued. Mayor Pro-Tem Stewart felt the sales tax approach to retail and an occupational fee for wholesale would be very fair. Occupational fees would be addressed at the time the Town drafts the regulatory ordinance, not on the ballot. The sales tax discussion resulted in a consensus on having a retail sales tax with wording on the ballot to go up to 10%, although discussion seemed to settle on 5% initially. This tax would be in addition to the Town's established 2% sales tax rate. The Board also agreed that any funds generated from either the additional sales tax imposed and any occupational fees be deposited into the General Fund with no designated or specified use.

New Business

Ordinance 2015-XX – Marijuana Licensing

Mayor Pro-Tem Stewart noted the Board passed a moratorium in 2013 with the understanding that a regulatory ordinance would be available for voters by September 1, 2014. This ordinance is not up for adoption unless the voters allow retail marijuana in November, but meets the promise made with the moratorium ordinance. Manager Rabe indicated that because of the way liquor licensing was discussed, the Board may choose to switch out the Clerk for the Board of Trustees as the licensing authority. Trustee King would prefer to have the entire zoning map shown with buffer zones marked. After more discussion regarding liquor, other work sessions and distances, no action was taken.

Beaver Dam Ditch – Engineering Services Proposal

Mayor Pro-Tem Stewart noted the Town has a water right in the Minnesota Creek drainage area currently classified as an irrigation right that the Town uses as a municipal right in winter. The Town filed an application in Water Court and the Division Engineer requested the right be clarified with information regarding historic uses, flow pattern, and etcetera. Two engineering proposals have been received; Applegate with a price of \$10,000, and SGM with a price of \$8,500. The Water Committee met and discussed the proposals and recommend SGM. Trustee King moved to approve the professional services agreement for SGM in the amount of \$8,500 effective August 12, 2014. Trustee Kleinman seconded. During discussion, it was noted the Town uses the water right only in winter. The Town paid \$100,000 for the right and this is a good use of funds in order to utilize the right to its fullest extent. The Town has had prior dealings with SGM. Motion was brought to a vote and passed unanimously.

WestWater Engineering – Engineering Agreement Amendments

Trustee King noted meeting with staff regarding the proposed four (4) amendments, and provided a brief background. The first amendment is for an environmental review and a cultural assessment for the Reynolds Spring waterline aspect, increasing the contract by \$5,600. The second amendment is for an environmental assessment for the Lamborn Water Treatment plant site for the two-million gallons filtration and water storage site. This amendment would increase the contract by \$12,500. The third amendment is for providing bid services for the half-million gallon (.5MG) water storage rehabilitation project, increasing the contract in the amount of \$6,400. The fourth amendment adds additional engineering services to encompass the one-million gallon (1MG) storage tank roof in the amount of \$16,000. WestWater Engineering is in line and still below original estimates for engineering costs. Trustee King moved to approve WestWater Engineering Amendment 1 in the amount of \$5,600. Trustee Watson seconded. Discussion regarding a piecemeal approach ensued. Attorney Marek reviewed all amendments. Trustee Bradford moved to amend the motion to include all four proposed amendments from WestWater Engineering as presented. Trustee Kleinman seconded and the motion passed unanimously. Trustee King wanted to ensure that details of all four amendments would be recorded in the minutes. The main motion was brought to a vote and passed unanimously.

Reynolds Spring Transmission Line – Bid Award

Trustee King noted three bids were received for the raw waterline extension project. The bid opening happened on August 4, 2014 with a bid tally being provided in the packets. Discussion regarding the type of pipe being used, PVC, and lifespan ensued.

8:34 p.m. Trustee Goold left the meeting

C. Kellie Knowles, WestWater engineer, was present and noted the soils on location will perk and the installation was discussed with bidders regarding pipe protections. Ms. Knowles indicated that the PVC would be a good choice due to mobilization.

8:36 p.m. Trustee Goold resumed his seat.

Trustee King moved to approve ECO Contracting for the construction of the Reynolds Spring raw water line extension in the amount of \$236,472.50 utilizing PVC pipe. Trustee Watson seconded and the motion passed unanimously.

8:38 p.m. Trustee Kleinman left the meeting.

230 Oak Avenue – Licensing Agreement

Elizabeth O'Reilly was present. Ms. O'Reilly owns the property and has utility meters located in the alley right of way (ROW) as well as a step that encroaches into the alley. Manager Rabe had proposed a licensing agreement to allow bollards on either side of the meters, and a railing for the step.

8:40 p.m. Trustee Kleinman resumed her seat.

The bollards were suggested by the Town, but if the gas company wants to protect their meter, then action is not required by the Town. There are other instances around town where meters are in alley and some are protected by bollards, and some are not. This process started as a variance, but that would have been a more permanent dedication of public property. The proposed licensing agreement is revocable; allowing for use of public property in a controlled manner and allows for changes in circumstance. Mr. Bill Brunner, a neighbor, noted the alley also serves his undeveloped property. Mr. Brunner spoke with Source Gas and is willing to pay to have the meter moved in order to keep the alley unobstructed. The water meter does not need to be moved because they are able to be driven over. Discussion regarding a survey ensued. Ms. Jen Brunner pointed out that a change of use should have triggered a special review before this. It cannot be assumed the empty lot will remain empty. Mr. Brunner feels the agreement sanctions the continuation of a situation that should not exist in the first place. Trustee Stewart moved to approve the licensing agreement as presented. Trustee Goold seconded. During discussion, manager Rabe explained that the gas meter is owned by Source Gas. Source Gas has a franchise agreement with the Town of Paonia, which provides for the utility to be in the ROW. If Source Gas chooses to protect its meter, then the Town is not required to do anything. Motion was brought to a vote and failed with Trustee Goold voting "aye", and Trustees Bradford, King, Kleinman, Stewart and Watson voting "nay".

9:06 p.m. Meeting recessed.

9:15 p.m. Meeting reconvened.

Resolution 2014-10 – Western Slope Conservation Center (WSCC) Great Outdoors Colorado (GOCO) Grant Support

Sarah Sauter was present. The WSCC is requesting approval of a resolution in support of a GOCO grant request in the amount of \$45,000 for signage at the River Park. The draft intergovernmental agreement (IGA) is being provided, but does not need to be approved at this time; only if the grant is awarded. Ms. Sauter provided a brief history and noted most of the improvements at the park have been developed on the Town's portion of the property. The Town would be the pass through agency, but the WSCC would provide any cash match. The majority of the signage would also be on Town property. The total budget amount is \$60,000 for approximately eight (8) signs designed, built and installed. This grant request does not compete with any other grant requests being submitted by the Town. This effort also leverages funds to receive \$35,000 from the Gates Foundation. The signs will be ADA compliant. The property is outside town limits, so there are not any land use regulation issues. Trustee Kleinman moved to approve Resolution 2014-10 as presented. Trustee Watson seconded and the motion passed unanimously.

Additional Business

Mayor's Report: Mayor Schwieterman was not available to report.

Town Manager: Manager Rabe submitted a written report. Trustee King requested a task list for the Board. Manager Rabe noted that will be part of the transition to the permanent Town Manager. Manager Rabe noted the benefits of attending Colorado Municipal League meetings.

Public Works: Director Loberg reported repairing a few leaks in pressure regulating valve vaults, and one at Apple Valley Park. Concrete was poured at the corner of Second Street and Main Avenue with the last section scheduled for next week. The Apple Valley project is still ongoing. Trustee Kleinman noted the North Fork Mosquito Abatement District is using a combination of fruit juice and garlic for pest control. This is a completely natural product, but it does produce a foul odor.

Police Report: Chief Leon submitted a written report. Chief Leon answered Trustee specific questions regarding the report.

Finance Report: Trustees Stewart and Bradford continue to meet and review all financials.

Parks Report: Trustee Watson is working on re-establishing a relationship with the Colorado State Forest Service.

Personnel Report: Trustees Goold and Kleinman had nothing to report.

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

Street Report: Trustees Bradford and King will attend a Colorado Department of Transportation (CDOT) meeting as part of the Delta County Commissioners agenda.

Water/Sewer Report: Trustee King noted receiving a letter from the Colorado Division of Water Resources requesting the installation of a measuring device on the Reynolds Spring line. Director Loberg indicated that staff is responding to that request. Another letter was received regarding the site of the proposed new water storage tanks and will be addressed at a later date. The Department of Health send a letter regarding the .5MG tank, which will not need to be addressed unless the Town awards a construction contract for that project.

Minutes:

Corrections noted. Trustee King moved to accept the minutes of July 22, 2014 as presented. Trustee Bradford seconded and the motion passed unanimously.

Disbursements:

Trustee Stewart moved to pay the bills through August 12, 2014. Trustee Bradford seconded and the motion passed unanimously.

9:45 p.m. Meeting adjourned.

Town Clerk, Barbara Peterson

Mayor Pro-Tem, Charles Stewart