

**Town Council Regular Meeting**  
**Town of Paonia, Colorado**  
**November 13, 2012**

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Council held Tuesday, November 13, 2012 was called to order at 7:02 p.m. with the Pledge of Allegiance. Those present were Mayor Neal Schwieterman, Trustees Corinne Ferguson, Brian Ayers, Ross King, Eric Goold, Amber Kleinman and Larry Wissbeck; Chief Scott Leon, Public Works Director Travis Loberg, Attorney James Briscoe; 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. Trustees King seconded and the motion passed unanimously.

**Announcements**

- Mayor Schwieterman announced the North Fork Airport was voted the 2012 Outstanding Colorado Airport by the Colorado Pilots Association.
- Clerk Peterson noted the North Fork Vision 2020 has installed the Heart and Soul mural at Town Hall and people are encouraged to come write on the windows about what is important to them in and about this valley.

**Visitors**

- None

**Unfinished Business**

**New Business**

**North Fork Ambulance - Update**

No one was present. Council concurred to hold this item in abeyance in case someone arrives later.

**Schwartz Lease – Modification Request**

Jeff Schwartz was present and due to Delicious Orchards insurance company balking at providing the \$3,000,000 worth of coverage when the industry standard is \$2,000,000 for general liability and \$1,000,000 per incident coverage. Mr. Schwartz is requesting the Town amend the lease agreement to reflect industry standards for the insurance coverage. Attorney Briscoe indicated a preference for having the Town covered by as much insurance as possible. The interest is in protecting the Town from any claims, although the primary camping use would most likely be less than on the rest of Delicious Orchard property. Council concurred to change the name on the lease to reflect Delicious Orchards, L.L.C. so both the lease and the insurance certificate would be in the same entity's name. Trustee Kleinman moved to change the insurance requirement for the farm lease to \$2M general liability with \$1M per incident and to change the name on the lease to Delicious Orchards, L.L.C. Trustee Goold seconded. During discussion, Trustee Ayers noted the lessee did not inform the Town that the insurance was not in compliance. Motion was brought to a vote and passed with Trustees Ayers and King voting "nay". Council requested this item be put on the next agenda to review compliance.

**Schwieterman – Boundary Adjustment**

Mayor Schwieterman recused himself and Mayor Pro-Tem Ferguson took control of the meeting. Mr. Schwieterman is requesting a boundary adjustment to acquire a thirty-five (35) foot by 100 foot swathe of land to the east of his property. Mr. Don May, owner of the property, is "selling" the piece for costs of transferring the property. Mayor Pro-Tem Ferguson noted items in the packets. Trustee Wissbeck noted this item came before the Planning and Zoning Commission (P&Z) for consideration. P&Z recommended approving providing a deed of the current owner could be verified and the homeowners association granted approval. Mayor Pro-Tem Ferguson read into the record a memo from Attorney Briscoe regarding Amendment 41: Prohibition of Gifts to Public Officials. Attorney Briscoe submitted the opinion in the memo that this piece of property is not a gift because the portion does not devalue the piece of property that is remaining and Mr. Schwieterman is, in effect, paying for the property

through the boundary adjustment, recording and survey expenses. A letter from the Creek Vista Crossing Homeowners Association voicing no objections was read into the record, as well as a letter from James Murphy on behalf of Creek Vista Seniors withdrawing his previous objections noted at P&Z. Mr. Schwieterman indicated the background and the reasons for the transfer. The piece would legitimize a fire break around the Schwieterman residence and provide the necessary land to comply with setbacks. After more discussion regarding costs and values, Trustee Ayers moved to approve the Schwieterman boundary adjustment as presented. Trustee King seconded and the motion passed unanimously.

Mayor Schwieterman resumed his seat and control of the meeting.

#### McGavin – Annexation Cost Adjustment Request

No one was present. Council concurred to hold this item in abeyance in case someone arrives later.

#### Additional Business

##### Mayor's Report:

Mayor Schwieterman reported that at the staff meeting, Trustee King asked about the additional pools of coverage from the Colorado Intergovernmental Risk Sharing Agency (CIRSA). Clerk Peterson has information, but does not have the authority to determine which pools would be appropriate. Trustees King and Ayers volunteered to review the pools and recommend appropriate additional coverages. Mayor Schwieterman attended a recycling meeting this week. Year to date, 140 tons of recycling have been collected at the transfer station. Delta County is discussing putting the recycling and possibly, the entire transfer station out to bid for private enterprise. Trustee Goold submitted a letter requesting he vacate his seat on the Parks Committee. Trustee Goold rescinded his written request and stated that he would continue work on the Parks Committee. Mayor Schwieterman thanked everyone for their patience with staff as they attend training these past two (2) weeks. Information has been coming from the Colorado Municipal League (CML) regarding Amendment 64 and the retail sales of marijuana. It was noted the amendment is separate from House Bill 10-1284, regarding medical marijuana. This Board to continue to monitor information as received.

Public Works: Public Works Director Loberg reported the Minnesota Ditch project has crossed one of the Town waterlines with no issues yet. There are three (3) crossings in the project. Staff continues to work on the street repair at Second Street and Main Avenue as well as installing radio read meters. The temporary part-time position has been filled from existing applications.

Police Report: Chief Leon submitted a written report. Saturday night the department responded to a possible sexual assault on a minor and the suspect is in custody. Misunderstandings between Mental Health and the department have been cleared up. Mental Health only has one (1) person on after hours and officers may be released as long a subject has been medically cleared is safely in jail.

#### McGavin – Annexation Cost Adjustment Request

Rick McGavin arrived. Mayor Schwieterman noted the invoice, e-mail from both Mr. McGavin and Attorney Briscoe and indicated this annexation provided another business in town as well as the purchase of another water tap. The process started in August 2011 and concluded April 2012. The amount of the bill seems very high to Mr. McGavin. This was a new process and what the Town has now is a template for future annexations, although this was a unique annexation agreement. Trustee Wissbeck proposed that the town has gained something of value from the planner and legal fees and moved to have the town deduct the planner fees from the annexation invoice in the amount of \$1,378.75. Trustee Goold seconded. Trustee Ayers noted that there are some justified planner costs. Trustee King indicated the property values were enhanced by annexing. Motion was brought to a vote and passed unanimously.

Finance Report: Trustee Wissbeck noted receiving the audit and the Town is in good financial condition.

8:26 p.m. Trustee Goold left the meeting

8:27 p.m. Trustee Goold resumed his seat.

Trustee Wissbeck noted the only line that drew any attention was the alleged theft and encouraged the Town to consider the whole document. Regarding insurance, it came to attention that insurance will only cover up to \$150,000 of entire theft amount. In addition to being an alleged thief, the former bookkeeper left very poor books and Cindy Jones has been hired and taken a great deal of time to bring them back into compliance with good financial practices. Trustees Ayers and Wissbeck continue to review expenses and payroll.

Parks Report: Trustee Kleinman met with the North Fork Pool, Park and Recreation District (NFPPR) to prepare a maintenance agreement should the NFPPR be awarded the grant to repair the tennis courts. The document has passed the NFPPR Board and will be on the next agenda.

Public Safety Report: Trustees Goold received a letter from Mr. Bobby Riggs regarding the railroad closings. Trustee Kleinman called Ms. Kelly Abaray with Union Pacific to talk about how much money is available for each closing. The railroad company should be here this week or next for repairs as promised.

Street Report: Trustee King had nothing to report.

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

Personnel Report: Trustee Ferguson advised Council that the personnel manual has been submitted to employees for comments.

Minutes:

Trustee Wissbeck moved to approve the minutes of October 12, 2012 as presented. Trustees Goold and King seconded and the motion passed unanimously. Trustee Ferguson moved to approve the minutes of October 23, 2012 as presented. Trustee Ayers seconded and the motion passed unanimously.

North Fork Ambulance - Update

No one was present. Council concurred to hold this item for the next agenda.

Disbursements:

Trustee Wissbeck moved to pay the bills ending November 13, 2012. Trustee Ayers seconded.

8:37 p.m. Meeting adjourned.

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Town Clerk, Barbara Peterson

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Mayor, Neal Schwieterman