

Minutes
Regular Town Board Meeting
Town of Paonia, Colorado
November 22, 2022

RECORD OF PROCEEDINGS

Roll Call

PRESENT

Mayor Mary Bachran
Trustee/Mayor Pro-Tem Thomas Markle (attends on Zoom)
Trustee Dave Knutson
Trustee Paige Smith
Trustee Dave Weber
Trustee John Valentine

ABSENT

Trustee Rick Stelter

Approval of Agenda

Mayor Bachran makes a note that the I-Codes adoption needs to be a public hearing. Tonight, it will be a review discussion and the public hearing and adoption will be at the next meeting.

Motion made by Trustee Knutson, Seconded by Trustee Weber, to approve the agenda.

Motion carries unanimously

Announcements

There are two members of the North Fork High School Advanced Audio/ Visual Class in attendance, Teacher Clara Pena and Aiden Kinser. The class is helping to make a short video for the SIPA Grant, showing where the sound upgrades are needed and going to be used. The Town of Paonia is very grateful for their help.

Town Administrator Finalists have been chosen: Evan Bolt, Guy Patterson and Melissa Fields-Allgeyer. The Town is taking letters of interest for a community leader panel for the interview process. Mayor Bachran asks that those letters of interest be emailed to Trustee Smith.

Trustee/ Mayor Pro-Tem Markle joins at 6:35 pm

Joe Brewer, specialist in permaculture and regenerative agriculture, was in town giving a seminar that had some good tips on managing conversation that Trustee Knutson wrote on a flip chart and hung on the wall to share.

Recognition of Community & Guests

No Community Comment

Consent Agenda

Minutes:

September 8, 2022

Special Meeting Minutes:

June 3rd, 2022

August 17, 2022

August 22, 2022

November 3, 2022

November 9, 2022

November 10, 2022

Disbursements

Motion made by Trustee Weber, Seconded by Trustee Valentine, to approve the consent agenda.

Trustee Smith had comments on several sets of minutes for readability, such as numbering new business for readability, better recording of actual wording of minutes. Mayor Bachran suggests that the Trustee write the suggestions down and send them to the Deputy Clerk to save time and confusion.

Trustee Weber makes a motion, Seconded by Trustee Knutson, to amend the main motion adding that Trustee Smith work with the Deputy Clerk to make suggested edits.

Trustee/ Mayor Pro-Tem Markle offers to show the staff how to use the transcription service to help in less time-consuming and more concise minute taking.

Motion to amend carries unanimously.

Trustee Weber adds a "thank you" to staff for working on getting minutes caught up, recognizing the hard work involved.

Main Motion " to approve the consent agenda with Trustee Smith working with the Deputy Clerk to make suggested edits to the Minutes.

Voting Aye: Trustee/ Mayor Pro-Tem Markle, Trustee Knutson, Trustee Valentine and Trustee Weber

Voting Nay: Trustee Smith

Motion carries.

Staff Reports

Community member asks when they can speak and after finding they had missed their opportunity at "Recognition of Community & Guests" because they didn't hear, Mayor Bachran allows them to make a comment before "Staff Reports".

Public Comment:

M. Hollander: Has concerns about the building permit process and thinks everyone should be treated the same way.

Trustee Weber informs that he checked on the project she is talking about and a building permit has been issued for it.

Mayor Bachran reminds everyone that there is to be no back and forth discussion and in the future, to please contact people after the meeting to answer their questions.

Staff Reports

Interim Administrator Leslie Klusmire details what she has identified as projects needing taken care of after meeting with department heads, Board members, and several contractors. She shares some updates about capital projects, town attorney work, police department hires and purchases and grants with CDOT & DOLA. The Interim Administrator also provides some information on affordable housing studies, the building permit project spoke about by M. Hollander earlier, the old Hive building and her individual meetings with Board members that she will be submitting a report about at a later date.

Trustee Smith asks Finance Director Jones about what SAMS is. Director Jones and Interim Administrator Klusmire explain that it is one of four different memberships the Town must have to receive grants.

Trustee Smith also thanks Director Jones for including the grant updates in her report, which is helpful.

Trustee/ Mayor Pro-Tem asks if it is possible to get some documentation on the SIPA grant, showing what its limitations are. And asks for clarification about the group helping make a video for it.

Mayor Bachran explains that since the Town was unable to attend in person when the grant was awarded, that SIPA asked for a short video about how the funds would be used and that the group making the video is North Fork High School students in the Advanced Audio/Visual Class, not a hired group.

Public Hearing

Resolution 2022-13- Declaring the Decision to Opt-Out of FAMILI

Public Hearing is opened at 6:56 pm

Interim Administrator Klusmire asks if there has been a discussion about opting in or not.

Trustee Smith asks whether or not the employees were surveyed about what their preference was and asks for some clarification about whether the new accrued leave that this program gives is payable on separation from employment or not.

Town Attorney Cotton-Baez provides advice about the employees knowing that they can comment on the decision. He also directs the Board to the personnel guide for answers on the carry-over.

Trustee Weber states that he feels the Town is more generous in leave time than the FAMILI plan.

Trustee Knutson states that the Town went from Sick Leave to Paid Time Off which is much more structured. He continues that the polling of the employees is important because it can be a major impact on them and the law requires proof that the employees have been notified. Trustee Knutson then suggests that the issue be tabled until there is proof that that notification has happened and he doesn't view the packet being published as good enough.

Interim Administrator Klusmire reads the section of the Personnel Manual that deals with PTO and PSL.

Trustee Knutson makes a motion, Seconded by Trustee Smith , to continue the public hearing to the December 13th meeting.

Trustee Smith makes a motion to amend the main motion, Seconded by Trustee Weber to add that Interim Administrator Klusmire make sure the employees are canvassed before the next meeting.

Motion carries unanimously.

Main motion " to continue the public hearing to the December 13th meeting and having the interim administrator canvassing the employees before then."

Motion carries unanimously.

Public Hearing is continued to the December 13th meeting.

Unfinished Business

Police Department Vehicle Purchase

Mayor Bachran provides overview that during one of the budget sessions they had passed a motion to let the police department purchase a vehicle in the 2022 budget. Finance Director Jones clarifies that when they approve an amount they need to include the price of the vehicle and the cost of outfitting the vehicle as well.

Trustee Weber makes a motion, Seconded by Trustee Knutson, to approve the vehicle purchase maximum of \$55,000.

Trustee Smith asks a question about whether or not it is an unmarked vehicle.

Trustee Knutson asks if they will still approve the purchase before it happens and Finance Director Jones answers that the reason they are seeking a blanket approval is that the vehicles sell fast and even the ones they are looking at now are likely already sold.

Trustee/ Mayor Pro-Tem Markle asks about a motion made at another meeting about establishing a vehicle replacement policy.

Trustee Smith makes a motion, Seconded by Trustee Weber, to amend the main motion making the Maximum amount \$60,500.

Public Comment:

C. Patterson: Asks if there is some sort of five-year plan from the police department with the Back the badge money.

Mayor Bachran reminds the public that the only discussion right now is on amending the amount to \$60,500 maximum for the new police vehicle.

C. Patterson: says she understand but wonders if having a five or ten year plan involving that money would help in these decisions.

T. Lord: A comment was made about robbing Peter to pay Paul, in this situation who is Peter and who is Paul?

Unhearable name on recording: If we are using more than was budgeted for the vehicle, where is that extra money coming out of in the police budget?

Finance Director Jones does reply that it would come from the Police Department reserves

Motion on Amendment:

Voting Aye: Trustee Knutson, Trustee Valentine, Trustee Smith and Trustee Weber

Voting Nay: Trustee/ Mayor Pro-Tem Markle

Motion Carries.

Main Motion "To approve the police vehicle, fully outfitted, purchase maximum of \$60,500.00"

Voting Aye: Trustee Knutson, Trustee Valentine, Trustee Weber

Voting Nay: Trustee/Mayor Pro-Tem Markle and Trustee Smith

Main motion carries.

Ordinance 2022-09: Amendment to Chapter 18 of the Municipal Code and adopting 2018 I-Code

Mayor Bachran outlines that this version of Ordinance 2022-09 came after a long discussion, after which Trustee Smith took considerable time going through and adding/changing things based on the discussion. Next, Building Official Dan Reardon, went through and made comments on those suggestions and that is the current version of the ordinance.

Board Discussion:

Trustee Smith explains that most of her changes were merely for clarification and cleaning up. Building Inspector Reardon made compelling arguments about why a few of her suggestions shouldn't be used and she agrees with him. She asks that those suggestions be removed.

Trustee Weber asks Inspector Reardon if what they have come up with is consistent with surrounding communities and he agrees that it is.

Mayor Bachran says that Trustee Stelter called her that day and asked that the Town insist on sprinklers in nursing homes and care facilities and in the ground floor of commercial buildings when there are residences above them. Inspector Reardon confirms that requirement is included, between this ordinance and the International Building Code.

Trustee Smith asks that when the final draft is written, that the National Electrical Code be spelled out instead of its acronym on page 125.

Inspector Reardon also reminds the Board that our Resolution fee schedule doesn't address all of the violations and fines spelled out in the Ordinance so recommends that be updated as well.

Street Closure Change of Ordinance Recommendation

Trustee/ Mayor Pro-Tem Markle explains briefly what decisions the Board still needs to make to finish out the proposed revisions to the Ordinance: insurance responsibility and restrictions on how many times a street can be closed.

Town Attorney Nick Cotton-Baez suggests that the insurance language would be best from CIRSA but he is happy to work with them on it.

Interim Administrator Klusmire explains that special events aren't covered under a blanket policy but have to buy a rider and then the Town has to collect the fee from the event holder.

Board discusses the pro's and con's to this avenue

Trustee Knutson makes a motion, Seconded by Trustee Smith , to be consistent and require the event holder to be responsible for providing proof of general liability insurance with their application.

Motion carries unanimously.

Trustee Valentine describes the public input meetings and how it was hard to nail down a good suggestion for how to handles street closures coming too frequently and there was not a consensus on how best to restrict it, when you consider that it has to apply to both the main business core of the town and residential neighborhoods for block parties etc. Trustee Smith states that she also wants to see a very clear policy that prevents the matter from coming to the Board of Trustee's to be the final word after it is adopted.

Trustee Weber agrees that Board should not have the authority to make exceptions to law and they should leave the hours the way they were originally set.

Mayor Bachran agrees that the Board should be taken out of the permit process but makes the point that the original hours were from pre-COVID and that the pandemic changed the way business is looked at and done dramatically.

Trustee/ Mayor Pro-Tem Markle clarifies that the Board approval parts were for the people who were upset there wasn't a process to go through for exceptions. He recommends that the Board approval part be included so they can make exceptions, without breaking the law.

Trustee Smith points out that if they set the rules, then people will plan their events within those rules. There were businesses downtown that weren't happy with a three day street closure just as there were others that were happy about it.

Trustee Knutson makes a motion, Seconded by Trustee Smith, that section (l) says commercial streets not be closed more than 6 times in one calendar year.

Public Comment:

M. McEnnis: Is there a balance between restrictive and fluid? For example: setting criteria for an organization to meet if an exception can be made ie. public support?

Unknown: Does not want the businesses on Grand to be the ones who decide if the public gets to close the streets.

Trustee/ Mayor Pro-Tem Markle clarifies that the petition is not meant to decide whether or not a closure happens but be used as a courtesy and information gathering for future decision making.

Town Attorney Cotton Baez asks for clarification on the term commercial district.

Trustee Knutson makes a motion , Seconded by Trustee Valentine to amend the main motion to say 8 events per calendar year.

Public Comment:

S. Patterson: it should be days not events

Motion to amend to 8 events.

Voting Aye: Trustee Valentine, Trustee Knutson

Voting Nay: Trustee/ Mayor Pro-Tem Markle, Trustee Smith, Trustee Weber

Main Motion " that section (l) says C-1 and C-2 streets not be closed more than 6 times in one calendar year.

Motion carries unanimously.

Trustee Knutson makes a motion, Seconded by Trustee Valentine, that section (m) say that street closures can not exceed 10 hours in duration, except on Sundays and State recognized holidays. Any street closure falling outside of this limit shall require a review and approval of the Board of Trustees.

Board discussion about what Sundays and holidays hour limit should be.

Trustee Knutson rewords his motion, that section (m) say that street closures can not exceed 10 hours in duration. Any street closure application falling outside of these limits shall require a review and approval of the Board of Trustees.

Board discussion again about the position this puts Trustees in about making exceptions with no guidelines to follow for approval or denial.

Trustee Weber makes a motion, Seconded by Trustee Smith, to amend the main motion to add' and not more than one day in duration', after 10 hours in duration and strike the option of review and Board approval.

Trustee/ Mayor Pro-Tem Markle makes a motion, Seconded by Trustee Knutson, to split the motion into two distinct amendment motion.

Vote to amend main motion (1) "amend motion to add 'and not more than one day in duration" after "cannot exceed more than 10 hours in duration"

Voting Aye: Trustee/ Mayor Pro-Tem Markle, Trustee Smith, Trustee Weber

Voting Nay: Trustee Knutson, Trustee Valentine

Motion to amend carries.

Vote to amend main motion (2) striking the clause for Board review and approval.

A poll is requested by Trustee/ Mayor Pro-Tem Markle due to confusion of motion

Poll: (Aye: to keep the Board review and approval process)

Trustee Knutson: Aye

Trustee Valentine: Aye

Trustee Smith: Nay

Trustee/ Mayor Pro-Tem Markle: Aye to retain

Trustee Weber: Nay

Motion carries to keep Board of Trustee's review and approval.

Main motion: that section (m) say that the Town administrator can approve street closures but the closure can not exceed 10 hours in duration and one consecutive day. Any street closure application falling outside of these limits shall require a review and approval of the Board of Trustees.

Board discussion proceeds on the best way to word the motion so that it is clear.

Town Attorney Nick Cotten-Baez asks for clarification on what the Boards intent is and then suggests that in the future, instead of trying to 'draft on the fly' they can inform him of their intent and allow him to draft the appropriate language.

The Board asks the Town attorney draft their intent and he clarifies what they are asking for: town administrator approval, closures not longer than 10 hours in duration, no street closures more than one day in a row, no more than 6 street closures in a C-1 or C-2 district in a calendar year, and that street closures falling outside those limits will be required to be reviewed and approved by the Board of Trustees.

Motion made by Trustee Knutson, Seconded by Trustee Valentine, to take a five-minute recess.

Motion passes unanimously.

Meeting resumes at 8:24 pm

Flag Policy Recommendations

Trustee/ Mayor Pro-Tem Markle and Trustee Valentine provide background on the developing of the Flag Policy and public information meetings leading to it. Board voted to remove restrictive language and they tried to include permissive language instead.

Board Discussion includes that Paonia is a statutory town, discomfort with people putting up their own flag displays for safety and liability reasons, how this would impact school event and town sponsored event banners, takes away the ability of sponsorship and promotion of special events like BMW, Cherry Days, Mountain Harvest Festival etc, ceremonial vs special occasion, DMEA poles and what should be allowed on them, Town

should own anything that flies on Town owned property. Trustee's also discuss whether as a municipality there is any obligation to advertise or promote graduations or events.

Trustee Valentine asks the Town attorney if the language about ceremonial/commemorative flags opens the town up for a lawsuit.

Town Attorney Cotten-Baez responds that it was the primary reason for his comment in the prior meeting. Says that the policy is very good at the beginning when it comes to government speech but when it opens the door for the public to apply for a permit to hang their own, it blurs the line between government speech and freedom of expression. There needs to be parameters of government speech in the policy and right now it is too open ended to protect the Town. He could make some suggestions based on what other municipalities have done. He continues on with multiple suggestions that could be covered in a policy ie: insurance, materials, maintenance. The Town Attorney also talked about the importance of defining town sponsorship and government speech.

Board discussion continues with topics about town purchased banners and signs only and striking section B.

Interim Administrator Klusmire suggests changing it to Town Owned and then it could become a matter of the organizations donating them.

Trustee Weber makes a motion, Seconded by Trustee Smith , to strike section b of the flag policy and replace it with Town owned banners and flags.

Board discussion includes this putting the board back in the same position that they are already in, not wanting a divided community and staying away from controversy, giving it back to Town Attorney, section (b) has some language that is still needed, no more new ideas coming out of streets committee.

Town Attorney asks for clarification about Section (b) and points out that as long as groups can submit applications for approval or denial it opens the door to freedom of expression instead of it being government speech. It is the approval and Denial process that is the issue.

Board discussion continues with suggestions of leaving it to the private sector to hang things in their windows and stop bringing it to the Board to approve or deny.

Public Comments:

Appreciate Trustees Valentine and Markle and their time spent to help find a solution and make sure everyone was heard, Paonia should celebrate these heritage days and months like other places.

Eliminate the approval and disapproval process, follow National law, Paonia is more than a municipality.

Quite a few Board members are quick to allow religious decorations and if those are allowed so should Pride flags.

Founding Fathers intent was about not allowing government to dictate religion. What is a heritage flag?

Objects don't cause controversy, peoples way of thinking does. These situations open good conversations between neighbors.

Freedom in your own space not what can my government do, protect, say, give me. Be very careful about flying flags for special groups, that is dangerous territory. Only government speech on public property.

Paonia is welcoming, keep it that way. Don't go with the easy option, don't vote easy.

If you are going to ask for a committee and involve the community, then do not throw away what they came up with.

Please keep and adopt Section 3 (b)

Many State and Federal government buildings celebrate all the heritage months, follow their examples.

Trustee/Mayor Pro-Tem Markle makes a motion, Seconded by Trustee Weber to split the motion.

Board discussion: while government should be representative of community, it is not. Trustee Valentine makes a motion, Seconded by Trustee Knutson, to amend the motion to say strike section (b) except for 3 (b)

Aye: Trustee Knutson, Trustee Valentine

Nay: Trustee/ Mayor Pro-Tem Markle, Trustee Smith, Trustee Weber

Main motion (1) Motion to strike Section B

Aye: Trustee/ Mayor Pro-Tem Markle, Trustee Weber, Trustee Smith

Nay: Trustee Knutson, Trustee Weber

Motion carries.

Main motion (2): motion to only have the Town fly town owned banners and flags

Aye: Trustee Smith, Trustee Weber

Nay: Trustee/ Mayor Pro-Tem Markle, Trustee Knutson, Trustee Valentine

Motion fails.

Trustee Smith makes a motion, Seconded by Trustee Weber to adopt the flag policy as amended

Aye: Trustee/ Mayor Pro-Tem Markle, Trustee Weber, Trustee Smith

Nay: Trustee Knutson, Trustee Valentine

The motion carries.

New Business

Trustee Smith makes a motion, Seconded by Trustee Valentine to extend the meeting to 9:45 pm.

Voting Aye: Trustee Knutson, Trustee Smith, Trustee Weber, Trustee/ Mayor Pro-Tem Markle

Voting Nay: Trustee Valentine

Board decides to move Resolution 2022-15 Water Rates and Charges, Ordinance 2022-08. Sewer Rates and Resolution 2022-14 Garbage Rates to the Special Meeting on November 29th at 5 pm after the RCAC Sewer Cost Analysis Report.

Appointment to the Tree Board

Trustee Valentine makes a motion, Seconded by Trustee Knutson to accept the 4 applicants for the Tree Board to fill the 4 spots that are open.

Voting Aye: Trustee Knutson, Trustee Valentine, Trustee Smith and Trustee Weber

Voting Nay: Trustee/Mayor Pro-Tem Markle

Trustee/Mayor Pro-Tem Markle calls point of order and states that with multiple people talking it is very hard to hear and asks the Board to please follow procedure so only one person is talking at a time.

Cancellation of Second Meeting in December

Trustee Weber makes a motion, Seconded by Trustee Smith, to cancel the second meeting in December.

Motion carries unanimously.

Town Hall Closure Request

Trustee Weber makes a motion, Seconded by Trustee Knutson to approve the Town Hall Closure requests for the holidays.

Motion carries unanimously.

Resolution 2022-15 Water Rates and Charges

Moved to November 29, 2022 Special Meeting

Ordinance 2022-08 Sewer Rates

Moved to November 29, 2022 Special Meeting

Resolution 2022-14 Garbage Rates

Moved to November 29, 2022 Special Meeting

Mayor's Reports

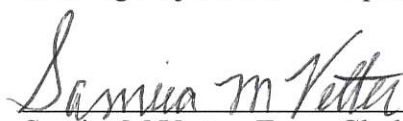
Committee Reports

Personnel:

Town Clerk is a statutory requirement, and the knowledge of Clerk duties is needed. The expertise of the role is needed, and the staff needs to have someone who can answer questions.

Adjournment

Meeting Adjourns at 9:44 pm



Samira M Vetter, Town Clerk





Mary Bachran, Mayor