

Minutes  
Regular Town Board Meeting  
Town of Paonia, Colorado  
February 23, 2021

**RECORD OF PROCEEDINGS**

The Regular Meeting held via Zoom on Tuesday, February 23, 2021, was called to order at 6:31 p.m. by Mayor Mary Bachran, followed by the Pledge of Allegiance. Formal Video Record at <https://www.youtube.com/watch?v=qH7hMrdzKqU>

**Roll Call**

PRESENT  
Mayor Bachran  
Trustee Bear  
Trustee Budinger  
Trustee Knutson  
Trustee Pattison  
Trustee Johnson  
Trustee Meck

**Approval of Agenda**

🚩 Motion made by Trustee Budinger, Seconded by Trustee Knutson to remove item 11- Resolution 2021-02 Amending 2020 - Budget and unanimously carried to approve agenda as amended.

Council Member	For	Against	Abstain	Absent
Trustee Bear	X			
Trustee Budinger	X			
Trustee Johnson	X			
Trustee Knutson	X			
Trustee Meck	X			
Trustee Pattison	X			
Mayor Bachran				

**Announcements**

Announcements by Mayor Bachran

- Delta County Health Department is distributing 1,000-vaccines on March 6<sup>th</sup> and registering those who want the vaccine. To register refer to Delta County's website.
- The status of Delta County's current COVID-19 dial level is Blue-caution. Mayor Bachran informed that Town Hall offices will resume normal hours and Town meetings will be held in person.
- President Joe Biden marked the 500,000 COVID-19 deaths milestone and a moment of silence was taken.

**Recognition of Visitors & Guests**

- A citizen expressed concern about the ad for employment not showing on the Town's website.
  - The administrator stated that the citizen's concern had already been addressed and the ad is on the website.

**Staff Reports**

Administrator's Report:

- The Administrator's report was included in the packet.
  - Board members discussed the Twin Lakes restricted funds, and it was suggested to start the process of applying for the Brownfield Grant to confirm the previously completed land remediation.
  - Clarification requested regarding the Dark Skies ordinance review.
    - The Administrator clarified that it was to go to the citizens committee and then brought back to the Board for review.
  - Board members asked for an update on the letter regarding lead in the water.

- The Administrator discussed the letter and process taken.
- Board members expressed their concern about the possibility of lead pipes.
  - Public Works Director Loberg stated that 3 blocks could have lead attachments to the pipes and that the pipes are tested regularly for lead.

Public Works Report:

- The Public Works Report was included in the packet.
- Public Works Director reported on the status of the SCADA system.
- Potholes are being addressed.
- Received the new lab equipment for the wastewater treatment facilities.
- Board members asked for an update on the High School meter installation.
  - Public Works Director elaborated on the reason for the delay in the meter installation.
- Board members discussed the spreadsheet for the production of the 2ML water plant.
  - The spreadsheet was included in the packet.

Public Comment:

- A citizen questioned the process of decommissioning the Twin Lakes wastewater plant and what the Brownfield grant would be used for.
  - Public Works Travis Loberg stated the process that was taken to decommission it.
  - Mayor Bachran elaborated on the importance of what the grant would be used for.

Police Report:

- The police blotter was included in the packet.
- Nothing to report.
- Board members asked for an update on the status of the new patrol vehicle.
  - Chief Ferguson informed the Board that he is still waiting on the equipment to be delivered.
  - Board members asked for an update on the status of political signs.
    - Chief Ferguson informed that there is no new information and is working with the Town Attorney Nerlin on the issue.

Attorney Report:

- The attorney's report was included in the packet.
- Discussed the Riverbank development and that a certificate of occupancy will not be issued until the water moratorium is lifted and taps available of some of the lots.
- Reported on the status of the Paonia Ditch Company.
- Board members discussed the Board of Adjustments/Board of Appeals, and it was suggested to look into a regional board of appeals.
  - Town Attorney Nerlin stated that he will work with staff on the suggestion made.

**Disbursements**

Treasurer's Report:

- Reviewed disbursements and payroll.
  - Disbursements were included in the packet.

Disbursements Report:

- The Finance Director's report was included in the packet.
- Motion by Trustee Knutson and seconded by Trustee Budinger and unanimously carried to approve the disbursements as presented.

Council Member	For	Against	Abstain	Absent
Trustee Bear	X			
Trustee Budinger	X			
Trustee Johnson	X			

Trustee Knutson	X		
Trustee Meck	X		
Trustee Pattison	X		
Mayor Bachran			

**Regular Business**

**DMEA Franchise Fee/Sales Tax update by Treasurer & Town Attorney:**

- Treasurer King reported that he spoke with the town auditor and town attorney regarding the concerns that were bought up regarding the DMEA franchise fee/sales tax.
- Treasurer King also reached out to a representative from DMEA regarding these concerns.
- Town Attorney Nerlin stated that the Town’s franchise agreement is due to be updated.
- Board members discussed the possibility of re-negotiating the franchise fee with DMEA with the upcoming update of the Town’s franchise agreement.
- Discussed the recommendations.
  - Re-negotiate the DMEA franchise fee agreement in 2021.
  - Look into and revisit the definition of gross revenue.

**Public Comments:**

- A citizen suggested re-writing the franchise ordinance to include the definition of the gross revenue or making an ordinance based on gross revenue.

**2020 Sanitary Survey Follow-up #4:**

- Presented was the fourth 2020 water treatment plants sanitary survey update regarding the deficiencies and violations.
  - The sanitary survey was included in the report.
  - No discussion was made.

**Public Works Capital Equipment Acquisition:**

- Public Works Director Loberg’s recommendations to purchase a skid-steer were presented to the Board.
  - Recommendation of skid-steers and cost was included in the packet.
  - A question by a Board member regarding the old skid-steer and if it would offset some of the cost or what will the sale price be.

 Motion made by Trustee Bear, Seconded by Trustee Meck and unanimously carried to approve the purchase of the skid-steer from Hommen Equipment for \$9,817.00.

Council Member	For	Against	Abstain	Absent
Trustee Bear	X			
Trustee Budinger	X			
Trustee Johnson	X			
Trustee Knutson	X			
Trustee Meck	X			
Trustee Pattison	X			
Mayor Bachran				

**Demolition & Removal of Decommissioned ½ million Water Storage Tank:**

- Discussion ensued on the request by Public Works Director Loberg to demolish the decommissioned ½ million water storage tank located on Creshaven Road.
  - Presented were three bids that were included in the packet.
    - Roop Excavation, LLC – \$35,400.00
    - Tribble & Sons, LLC - \$36,200.00
    - Dales Quality Construction - \$37,800.00
  - Concerns by Trustee Bear who is in favor of demolishing the tank but would like to see the water reserve funds that are in the budget.

- Administrator Ferguson suggested tabling the item to gather the information requested and review it with the Finance Officer.

🚩 Motion made by Trustee Bear, Seconded by Trustee Knutson and unanimously carried to table until next meeting to gather water reserves information.

Council Member	For	Against	Abstain	Absent
Trustee Bear	X			
Trustee Budinger	X			
Trustee Johnson	X			
Trustee Knutson	X			
Trustee Meek	X			
Trustee Pattison	X			
Mayor Bachran				

Policy Regarding Signing Letters of Support of Opposition Discussion:

- Discussion regarding the Board members signing as Trustees or individuals. Town Attorney reiterated his memo concerning the issue.
- Trustee Pattison suggested adding a disclaimer after or when signing letters.
- Discussion regarding distinguishing the views in a personal vs political when signing.
- No action was taken.

Ordinance 2021-TBD Establishing Marijuana Regulation:

- The draft ordinance that the working group helped to develop by suggesting modifications was included in the packet.

Board & Staff Comments:

- Concerns about the Town having empty storefronts.
  - A suggestion made was to require the customer to obtain a storefront first before applying for the marijuana application – the suggestion was not recommended because there were concerns with applicants being deemed complete or not.
    - Suggestion to put parameters in place.
  - Discussion ensued regarding the Town having a limit of shops – this was not recommended by the Marijuana working group. Concerns were that this would limit the number of applications.
  - Discussion was made regarding the types of shops either medical or retail or having dual shops.

🚩 Motion by Trustee Knutson, seconded by Trustee Johnson to allow no more than 3 recreational marijuana shops and no more than a total of 6 recreational and medical shops.

A discussion was made:

- Trustee Pattison stated that she would be in favor of having a limit based on the population.

🚩 Motion amended by Trustee Knutson, seconded by Trustee Johnson to add language – the numbers are based on a population of 1500 if the population ratio changes at the same level base on the future population increases.

- Trustee Budinger stated that 6 shops is a lot but is in favor of putting a limit.
- Trustee Bear agrees that 6 shops are too many.

🚩 Primary amendment amended motion by Trustee Budinger, seconded by Trustee Johnson to add language – the number of shops may be increased by a resolution of the board.


- Trustee Knutson withdrew the motion.

🚩 Motion by Trustee Knutson, seconded by Trustee Johnson and carried with 1nay and 5 ayes. that one (1) shop, one (1) retail and/or medical marijuana shop per city block including both sides of the street.

- Two (2) community members were not in favor of this motion made.

Council Member	For	Against	Abstain	Absent
Trustee Bear		X		
Trustee Budinger	X			
Trustee Johnson	X			
Trustee Knutson	X			
Trustee Meck	X			
Trustee Pattison	X			
Mayor Bachran				

- Discussion ensued regarding the delivery of Marijuana products.
  - Trustee Johnson was in favor of this.
  - Trustee Meck suggested only medical products.
  - Trustee Budinger not in favor of delivery.

 Motion by Trustee Pattison, seconded by Trustee Johnson and unanimously carried to allow delivery with the same regulations as required for liquor delivery in town.

Council Member	For	Against	Abstain	Absent
Trustee Bear	X			
Trustee Budinger	X			
Trustee Johnson	X			
Trustee Knutson	X			
Trustee Meck	X			
Trustee Pattison	X			
Mayor Bachran				

- Trustee Knutson questioned signs located on the Hwy133 corridor.
  - Town Administrator stated the out-of-town signs and located on the Hwy are regulated and approved by the County and MED.
- Under section 6-4-30 questioned regarding the date – Town Attorney stated once the ordinance is passed it will get updated.
- Concerns about the language on page 53 how the Marijuana license is processed.
- Community members suggested language needs to be clear stating retail only not production, research needs to be done on the word establishment vs stores, suggested having the word his/hers to they throughout the ordinance be changed.
- Questions regarding that the planning and zoning committee should be involved in the application process – the Marijuana permit process would be handled similar to that of a Liquor License. Planning and Zoning would be involved when the applicant is requesting to put a shop in a zone that is not permitted to.
- Discussion regarding the responsible party for holding the bond. The suggestions were to have the applicant hold the bond, have a restricted account where the applicant would make the deposit – The administrator stated that the bond is usually held and deposited by the Town.
  - Question about the cost of the bond – working group suggested opting in for a cash bond.
  - Board stated that more information regarding Marijuana bonds is needed.
- Discussion regarding having a residency requirement in place was ensued and the working group is in support of having a residency requirement to apply. Trustee Pattison is not in support of this.
  - Board agreed to the 500ft limit.
  - Discussion regarding the transfer of ownership – the Board agreed to leave as is under section 6-4-130 – the working group did not recommend this – The Administrator recommended the process mirror the liquor license.
- Break at 8:37 pm.
- The meeting resumed at 8:45 pm

Ordinance 2020-TBD Accessory Dwelling Unit Regulation:

- This item was tabled for the next meeting.

🚩 Motion by Trustee Pattison, seconded by Trustee Knutson and unanimously carried to table the ordinance 2020-TBD Accessory Dwelling Unit Regulation until the next meeting.

Council Member	For	Against	Abstain	Absent
Trustee Bear	X			
Trustee Budinger	X			
Trustee Johnson	X			
Trustee Knutson	X			
Trustee Meck	X			
Trustee Pattison	X			
Mayor Bachran				

Resolution 2021-03 Modification to Encroachment of Liquor Licensed Establishments:

- Discussion ensued the request by staff to amend resolution 2020-12 to include the modification included in the resolution.
- It was suggested that the Town match the State law regarding liquor license.
  - The expiration of the State liquor license law will be October 31<sup>st</sup>, 2021, and along with that, the Town's will to.

🚩 Motion by Trustee Meck, seconded by Trustee Budinger and unanimously carried to approve Resolution 2021-03 with changes made to page 2 section 2 striking words in, a.

Council Member	For	Against	Abstain	Absent
Trustee Bear	X			
Trustee Budinger	X			
Trustee Johnson	X			
Trustee Knutson	X			
Trustee Meck	X			
Trustee Pattison	X			
Mayor Bachran				

Governmental Affairs & Public Safety (GAPS) committee Short-Term rental (STR) Survey

Questions:

- The GAPS committee presented the Board with the survey they have been working on regarding STRs.
- STR survey was included in the packet.
- The fees presented were the cost to use a program to post the survey online for citizens to be able to take it online. The program is called Survey Monkey.
  - Basic plan – 10 questions – free
  - Paid plans - \$385 annually – includes 1 user for 3 users' cost is \$900 annually.
- Trustee Pattison stated that the number of questions on the survey can be made to have 10 questions.

**Consent Agenda**

Regular Minutes:

02-09-2021

🚩 Motion by Trustee Bear, Seconded by Trustee Budinger and unanimously carried to approve consent agenda as presented.

Council Member	For	Against	Abstain	Absent
Trustee Bear	X			
Trustee Budinger	X			
Trustee Johnson	X			
Trustee Knutson	X			
Trustee Meck	X			
Trustee Pattison	X			
Mayor Bachran				

**Mayor's Report**

Mayor's Report was included in the packet.

**Committee Reports**

Finance & Personnel report:

- Nothing to report.

Governmental Affairs & Public Safety report:

- Meeting 03/10/2021 at 10:00 am.

Public Works-Utilities-Facilities report:

- Nothing to report.

Tree Board:

- Nothing to report.


Advisory Water report:

- Nothing to report.

**Adjournment**

The meeting was adjourned by Mayor Bachran at 9:27 pm

  
Amanda Mojarró, Deputy Clerk

  
Mary Bachran, Mayor

