

**Minutes**  
**Regular Town Board Meeting**  
**Town of Paonia, Colorado**  
**June 27, 2023**

**RECORD OF PROCEEDINGS**

Trustee/Mayor Pro-Tem Markle calls the meeting to order at 6:30 pm

**Roll Call**

PRESENT

Mayor Mary Bachran (Zoom)

Trustee/Mayor Pro-Tem Thomas Markle (Chairing Meeting)

Trustee Paige Smith

Trustee John Valentine (Zoom)

Trustee Morgan MacInnis

Trustee Knutson joins (9:23 pm)

ABSENT

Trustee Rick Stelter

**Approval of Agenda**

Motion made by Trustee Smith, Seconded by Trustee MacInnis, to approve the agenda with item '6. Proposed Water Code Changes' moved to be the first discussion item.

Motion carries unanimously.

**Announcements**

Jeremiah Garcia has passed his D Water Treatment Examination.

**Public Comment**

Any topic not included on the agenda, 3-minute time limit.

W. Brunner- Questions people attending on Zoom, doesn't think it is legal. Has a request for next meeting about financial questions about funds being created without resolutions or ordinances. Also would like to know how the budget stands or are we on a new one, has budget been submitted to DOLA? Would also like to know how former Finance Director Jones severance was calculated with a breakdown, how much money was expended on employee dependents over and above what was owed by the Town and a list of the agencies and other entities that were consulted or hired to help figure out the finance situation and what they were paid.

S. Watson: Also dislikes the zoom meetings vs in person, Res 2021-07 says that the Town of Paonia has resumed in person meetings. If we are going to keep zooming meetings, we need a Resolution to do so.

P. VanWinkle: Think people zooming in from home should come in.

Administrator Klusmire clarifies that herself, Mayor Bachran and Trustee Valentine are all at the Colorado Municipal League Conference which is why they are attending by Zoom.

**Consent Agenda**

Trustee/ Mayor Pro-Tem Markle states that disbursements will be done separately since they were late-breaking and not in the packet.

Trustee Smith makes a motion, Seconded by Trustee MacInnis, that they approve the Consent Agenda.

Motion passes unanimously.

**Staff Reports**

Administrator Klusmire provides a verbal report about the Proposed water code changes that will eventually be put into Ordinance. She also requests that those who have not completed a committee scope please do so and send it to the Town Clerk as soon as possible since they would like to have it on the next agenda.

### **Disbursements**

Trustee Smith makes a motion, Seconded by Trustee MacInnis, to approve disbursements.

Motion carries unanimously.

### **Actions & Presentations**

#### 6. Discussion of proposed changes to code pertaining to water companies

Town Attorney Cotton-Baez opens himself up to any questions that the included memo do not answer.

Discussion ensues about the importance of better definitions in the code, differences between out-of-town water users and out-of-town water companies and the necessity of having official agreements.

Administrator Klusmire provides some background to the necessity of redoing the water code and the lack of agreements with most water companies that lead to issues with maintenance and operations with some smaller companies, which will cause issues with the Towns service and equipment.

Public Comment:

C. Kendall, Minnesota Creek Road: Speaking for several people including her own comments.

Reads text from President of Minnesota Domestic Pipeline: Feels the behavior from several council members is a disgrace and their refusal to work together as a team is causing the out-of-town users to be used as a piggy bank. Favors formation of a water commission for all users with full voting rights so they can seat a functional council that will look for solutions.

C. Kendall: We work with quite a few water companies for maintenance issues and has issues with some of the proposals. Understands that the aim is to make things better for the Town and do things right but has problems that water customers and not water companies can be leak credited once a year. We were made to be water companies in many cases and should be treated fairly. It isn't right to treat us any differently than in town users.

J. Polus: sits on Board for Stewart Mesa Water Company, we would like to request a seat at the table during these negotiations or development of new ordinances. There is a lot to be said and we would like to have a forum to say it.

M. Difranco: representing 3 different water companies. Would also like to see a water commission so that all can share talents and knowledge and keep consistent flow even through new councilmembers. Having a seat at the table for decisions about their water use where their input is taken would be much fairer and could benefit the Town.

C. Patterson: Sad to see the water committee disbanded because the discussion needs to start and the sharing of ideas needs to happen.

M. Moll: Lamborn Mesa Water Company- Makes sense that there would be formal agreements but doesn't know what it would look like.

C. Whitside: Board member of Lamborn Mesa Water Company, how many water companies and who do you have agreements with.

S. Watson: Addressing in town, out of town and water companies- houses out of town receiving Town Water, according to ordinance must get building permits through the town. Wants to remind out of town water users that they are not allowed to add kitchens and living unit while the water moratorium is in place. Who is surveilling this?

Administrator Klusmire asks that anyone who has legal documents that show this, please send them to the Town.

Trustee Smith says she has seen a provision in the code about this and will find it and send it to the Town offices.

S. Schmitzer: does billing for Chapin Water Association, how can we learn more about the items in the executive summary. Does this discussion end tonight or is this the beginning? There needs to be a collaboration between the Town and the water companies.

Trustee/Mayor Pro-Tem Markle explains that this is the beginning of the discussion to change an ordinance and that it is a deliberate process not a fast one.

Town Attorney Cotton-Baez points out that not all the changes have to do with water companies and that the two issues might need to be split. Some of these suggested changes come from Public Works and do not apply to water companies.

W. Brunner: There is a hole in the code now that we do not charge for additional use or dwelling units on water taps like we do on sewer taps and that is something that should be rectified. Water companies should get together and have a voice and it is something that has been needed for a long time. Points out that there is an initiative process in the law that could be used to provoke changes and offers his services. Many water companies gave water to the Town in return for water treatment and that should not be overlooked in the decision-making process.

(Name unhearable): Was nervous that the water companies would be lumped in with the in town situation and was happy to hear the Town Attorney and Trustee MacInnis point out that there are many nuances to the whole conversation and it isn't just water companies. Wonders where higher fees for higher water usage comes in and plans to continue paying attention. Would like to have a better understanding of the Town's responsibility and the water companies.

B. Morris: Whistling Acres Water Company: Explains the situation with their water company and a handshake agreement that no one remembers and how it means their water company is maintaining town taps without the fees associated with it.

(Name unhearable): Foothill Water No 2: we would like to have a voice so we can be treated fairly.

J. Link: Western Extension Water Company: Been a part of this since the beginning and have never seen an agreement, but I would like to. We have always had a good relationship with the Town and would like that to continue.

Board Discussion ensues including the importance of distinguishing between in- town and out-of-town user and water companies, difficulties for smaller water companies, importance of input and discussion from all sides.

1. Consideration and approval of EDFOODYO LLC request to modify liquor license premises to include sidewalk dining area.

Town Attorney Cotton-Baez gives background on the prior meeting discussions and potential conditions discussed. All that is required is the approval of a Modification of Premises from the Board.

Trustee MacInnis makes a motion to approve the request with modifications as discussed.

Motion fails for lack of a second.

Trustee Smith asks the Town Attorney about the need of a barricade.

Town Attorney Cotton-Baez explains that it is not clearly defined in the regulation and the Board has some discretion about what they can require.

Trustee Smith explains that in driving by the location, she is concerned that without some type of demarcation there is not going to be room for someone with a wheelchair and is worried about a bottleneck being created in a public right of way.

Trustee Smith makes a motion, Seconded by Trustee MacInnis, that we consider approving this application once the Board has decided what modifications may need to be added.

Ms. Cusack expresses frustration that this is their third meeting when this could have been taken care of with their initial license in November. She feels that their diagram from the last meeting and the rope barrier proposed will mark the area well enough, along with the signage, however they are open to whatever the Board feels is appropriate.

Mr. Vaughn adds that their season is ticking away, and they are losing both time and revenue and don't want to have to keep coming back.

Trustee Smith points out that it is important that they know what that barricade is going to look like because since it is a public sidewalk right of way and aesthetics are the Board's responsibility. While as a citizen she loves the food and everything they do, as a Trustee they have a responsibility to the community to make sure Public Spaces are utilized properly.

Trustee MacInnis thinks that the roping off the area would be sufficient and that safety concerns are already covered under liquor license regulations. However, it might be helpful to have the area the rope goes, marked on the sidewalk so it is consistent.

Mayor Bachran feels that rope barrier is sufficient for safety and demarcation and that more is overregulating the situation.

Ms. Cusack and Mr. Vaughn point out that they renew their liquor license in December so if there are issues, this can always be revisited then.

Public Comment:

S. Watson: Would have been nice to see the sidewalk permit and a scaled diagram on graph paper. Would like to see the actual scaled diagram. There is a lot of legal work that has gone into this so doesn't think fees should be waived, also feels that the tables are too large and the area isn't appropriate.

W. Brunner: Thinks it is a big mistake to approve a change to the liquor license without a quorum.

Trustee MacInnis makes a motion to Amend the Main motion, Seconded by Trustee Valentine, to approve the modification of premises guided by the diagram provided by the owners in the last packet (June 13th).

Board discussion ensues about: marking the sidewalk, keeping hydrant clear, more than adequate sidewalk space and modifications.

Public Comment:

S. Patterson: It doesn't have to be on a sidewalk, other restaurants have leased spaces that provide them with patios or gardens for things like this. Are people with furniture on the sidewalk going to be paying more taxes? There will be more of these, think of that. There should be more than 36 inches minimum on the sidewalk.

K. Schwartz: Fully support Nido moving forward with this plan, they bring life to the community, they have met the conditions of the liquor license and have done everything asked. Let's support our businesses!

S. Watson: The code says that C-1 sidewalks must be 10 feet wide and doesn't think they were originally designed that width for businesses to use. Give it a try and see what happens. What are the legal ramifications for after hours and non-business public liability.

Administrator Klusmire adds that from a downtown development professional perspective that people like to see vitality and if there is a certain amount of 'messiness' it makes people more aware of their surroundings and safer.

Amendment to main motion

Voting Aye: Trustee/ Mayor Pro-Tem Markle, Trustee MacInnis, Trustee Valentine

Voting Nay: Trustee Smith

The motion to amend carries.

Main Motion: to approve the application based on the drawing in the last (June 13, 2023) packet.

Voting Aye: Trustee/ Mayor Pro-Tem Markle, Trustee MacInnis, Trustee Valentine

Voting Nay: Trustee Smith

The motion carries.

## 2. Consideration and approval of Western Slope Conservation Centers request for a Town gravel donation for the River Park - Kathy Schwartz

Interim Executive Director of the Western Slope Conservation Center, Kathy Schwartz provides a presentation about the River Park's history and value to the community. She also shows that the River Park has to replace about 600 ft of trail that was damaged by the flooding and all the repairs will cost approximately \$62,000.00, which includes materials, equipment and labor, that they are actively fundraising for.

The parking lot was not damaged but in the scope of all the other work needing to be done and its importance to the community they are asking for a truckload, or 30 tons, of gravel to redo the parking lot which is in bad shape with many potholes causing potential safety issues. Her hope is that if the Paonia Board approves the gravel donation, then Mayor Bachran and herself can approach the County to help with grading.

Trustee Smith asks the Town Attorney since the MOU is so outdated, whether it is in the Town's best interest to do a new one and take on more responsibility for the parking lot.

The Town Attorney advises that if the Town is going to be taking on additional obligations, it is always good to have an agreement in place.

Administrator Klusmire provides background and explains that they were originally approached to do the work. Staff members cannot override an active agreement regardless of the situation. She cautions that the Town has multiple agreements with other groups and if you grant a request of monetary value to one group other groups will expect the same thing and the staff doesn't have time to loan out equipment and do extra work. They have been overrun this year with projects and the Town also has flood damage to deal with as well. As Town administrator, even though it is an unpopular statement, it is her job to remind the Board of the big picture and how the Town operates and that we must treat all groups we have agreements with similarly.

Trustee Smith makes a motion, Seconded by Trustee MacInnis, to deny the request for Town donation of gravel for the River Park and revise the MOU.

Trustee MacInnis states that while he understands that while the Memorandum of Understanding says that the second party is responsible for maintenance, it doesn't say the Town cannot choose to help with maintenance. He feels that maybe the Western Slope Conservation Center is having to use allocated money for upkeep and maintenance for repairs and that in recognition of the value to the community, he is willing to lend a helping hand as they restore the trails.

Trustee Smith explains that if not for the MOU she would be all over it but she takes Administrator Klusmire's advice seriously and doesn't want to put the Town in a position where they set a precedent that will back them into a corner. Revising the MOU won't happen right away but would address her concerns. She loves the River Park and wants to help but as Trustees they have to look at the bigger picture.

Trustee Valentine says that the Administrator and Town Attorney's comments weigh heavily but feels that asking for a donation is completely different, it isn't a commitment to ongoing work. He feels that the Board should rise to the occasion on this and if different groups make requests, so be it.

Mayor Bachran agrees that the River Park is an asset to the community and it wouldn't be the first time that the Town had helped with equipment or materials because it is such a treasure. Her biggest reservation is financial and without financial statements in front of her to show her the bottom line she isn't comfortable with jumping right in. If they could hold off two weeks until they have the financials, she would feel better about it.

Public Comment:

S. Watson: What does our insurance say about loaning Town equipment to people?

Trustee Smith states that she has looked at the parking lot and there is time to fix it since it wasn't damaged by flooding. She suggests that they work on a new MOU and then revisit the donation request.

Main motion: to deny the request for Town donation of gravel for the River Park and revise the MOU.

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

Voting Nay: Trustee Valentine

The motion carries.

3. Consider a mid-block Pedestrian crosswalk on Grand Avenue

Trustee MacInnis makes a motion, Seconded by Trustee Smith, to table this item until they have a presenter.

Motion carries unanimously.

4. Designation of handicapped parking at Town Park

Trustees ask a few questions about process and cost.

Trustee Smith makes a motion, Seconded by Trustee MacInnis, to return to this discussion with more information from staff at the July 11 meeting.

Motion carries unanimously.

## 5. Consideration of a mobility route on 3rd Avenue (Street)

Trustee Macinnis explains that he actually walked the route and wants to suggest that they detour from Third at Oak St and the go down the south side of Fourth is a better option for a mobility route. It would require less upkeep and repair and allow access to more locations (Town Park, NFSIS and Downtown) without too many detours.

Trustee MacInnis makes a motion, Seconded by Trustee Smith, that the potential route be changed from Third St to Third St, Oak St and down the south side of Fourth St.

Trustee Smith would rather table it until Trustees Stelter and Knutson are available for the discussion.

Trustee MacInnis rescinds his motion.

Trustee Smith makes a motion, Seconded by Trustee MacInnis, that this matter be brought back at the July 25th meeting.

The motion carries unanimously.

## 6. Consideration and approval of new 'Commercial Sidewalk Permit Application

Town Attorney Cotten-Baez explains the changes he suggested for the permit, protecting the town and requiring insurance and language specific to those with liquor licensing.

Trustee Smith would like the code, that pertains to the permit, included in the application and that it be clarified that you need a permit for every item on the sidewalk. She also feels we need to look at the policy, ordinance and enforcement.

Trustee Smith makes a motion, Seconded by Trustee MacInnis, to go ahead with the use of public sidewalks for business purposes permit; including a reference to Section 11- 1 - 30 and ensure that businesses are being issued a permit for every item on the sidewalk.

Public Comment:

S. Watson: Thinks name should be changed to the title of the ordinance. have to be renewed in June, change item listing, remove 'other'.

W. Brunner: Clerk shouldn't be doing this, refer back to Code always.

Trustee Smith makes a motion to amend the main motion, Seconded by Trustee MacInnis and add "and that the permit reflect the content of Section 11-1-30"

Main motion: to go ahead with the use of public sidewalks for business purposes permit; including a reference to Section 11- 1 - 30 and that the permit reflect the content of 11-1-30 and ensure that businesses are being issued a permit for every item on the sidewalk.

Motion carries unanimously.

## 7. Consideration and approval of SGM Scope of Work and Contract for 5th and Grand Engineered Plans to CDOT standards.

Mayor Bachran explains this is one of the steps needed for the Grant process. Administrator Klusmire also explains that the design is done but the drawings are not to CDOT standards which is required for the project.

Trustee Smith makes a motion, Seconded by Trustee MacInnis, to approve the SGM scope of work and contract for 5th and Grand engineered plans to CDOT standards.

Trustee Smith asks about geotechnical surveys and storm drain engineering being potential extra expenses.

Trustee/Mayor Pro-Tem Markle asks about the funding source and Mayor Bachran answers that it will be marijuana tax money since it is a capital project.

The motion carries unanimously.

#### 8. Consideration and Approval of Staff Recommendation for Town Contribution to Employee Health benefits

Administrator Klusmire provides background and rates to the new health plan and her recommendations for Town contributions.

Board discussion ensues about the previous meetings vote on July 13th, bundle rates vs age rates.

Trustee Smith makes a motion, Seconded by Trustee MacInnis, that we offer employees \$650 toward their premium and any employee, spouse plus we would pay \$800 total.

Discussion ensues about current budget concerns, last years budget, the difficulty of figuring dependent's percentage with the new plan, the need for the numbers, time sensitive, different plans, whatever is decided needs to be revisited very soon, too generous.

Trustee Knutson joins (9:09 pm)

Trustee Knutson makes a motion, Seconded by Trustee Smith, to take a five- minute recess while we make calculations.

The motion carries unanimously.

Recess begins: 9:14 pm

Recess ends: 9:19 pm

Trustee Smith rescinds her motion.

Trustee Smith makes a motion, Seconded by Trustee MacInnis, that we extend the meeting to 10:30 pm

Motion carries unanimously

Trustee Smith makes a motion, to proceed with what is in front of us and will revisit the premium at the first meeting in October.

Motion dies for lack of second.

Trustee Knutson makes a motion, Seconded by Trustee Smith, that he and Administrator Klusmire figure out premium costs for this which honor the vote done at the last meeting and that the Board authorize them finding calculations together.

Administrator Klusmire encourages the Board to remember that employee retention is a goal here and another Town has already made a better offer to one of our employees.

Public Comment:

C. Patterson: The right employees are worth everything.

Board Discussion continues about honoring former votes, fiscal responsibility, budget process, stability for employees.

Main Motion:

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



Voting Nay: Trustee Smith and Trustee MacInnis

The motion carries.

9. Consideration and approval of purchase of Laptop for New Town Administrator. Trustee Smith makes a motion, Seconded by Trustee Knutson, to buy a new laptop and not spend more than \$3000.00.

Public Comment:

S. Patterson: What goes on with all the devices from all the employee turnovers and why are we still using Phonz.

Voting Aye: Trustee Smith, Trustee Valentine, Trustee Knutson, Trustee MacInnis

Voting Nay: Trustee/ Mayor Pro-Tem Markle

The motion carries.

10. Consideration and approval of CIRSA Property Casual Renewal

Trustee Knutson makes a motion, Seconded by Trustee Smith, to continue this to the next agenda.

The motion carries unanimously.

11. Consideration and approval of CIRSA Workmans Comp Ins 2024

Trustee Knutson makes a motion, Seconded by Trustee Smith, to continue this to the next meeting.

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

Voting Nay: Trustee Smith

The motion carries.

12. Consideration and approval of MOU between Paonia Police Department and Delta County Human Services and Law Enforcement

Trustee Smith makes motion, seconded by Trustee Knutson, to approve the MOU between Delta County Human Services and law enforcement.

The motion carries unanimously.

### **Executive Sessions**

Trustee Smith makes a motion, Seconded by Trustee Knutson, to go into Executive Session, pursuant to Section 24-6-402(4)(e)(I), C.R.S., for determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, relative to a contract with a finalist candidate for the position of Town Administrator.

AND

Executive Session, pursuant to C.R.S. Section 24-6-402(4)(f)(I), for the purposes of discussing a personnel matter concerning employees who have not requested that the matter be discussed in an open meeting, specifically pertaining to compensation and potential promotions.

The motion carries unanimously.

Executive session begins: 10:07 pm

Board comes out at 10:17 pm

Trustee Knutson makes a motion, Seconded by Trustee Smith, to extend the meeting to 11 pm.

The motion carries unanimously.

The Board returns to Executive Session at 10:18 pm

Executive Session ends: 10: 41 pm

The participants in the Executive session were Mayor Bachran, Trustee/ Mayor Pro-Tem Markle, Trustee Valentine, Trustee Smith, Trustee Knutson, Trustee MacInnis, Interim Administrator Klusmire and Town Attorney Cotten-Baez.

No concerns were noted for the record.

Trustee Knutson makes a motion, Seconded by Trustee Smith, that they accept the contract as presented in the executive session and authorize the Mayor to sign it, for the Town Administrator.

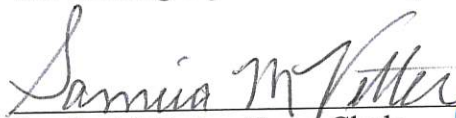
The motion carries unanimously.

Trustee Knutson makes a motion, Seconded by Trustee MacInnis, to authorize the Interim Town Administrator to increase staff compensation as suggested in the executive session.

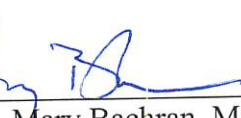
The motion carries unanimously

**Adjournment**

The meeting adjourns at 10:52 pm

  
Samira M Vetter, Town Clerk



  
Mary Bachran, Mayor