

Minutes
Regular Town Board Meeting
Town of Paonia, Colorado
July 23, 2019

RECORD OF PROCEEDINGS

Roll Call

1. Roll Call

PRESENT

Mayor Charles Stewart
Mayor Pro-Tem Chelsea Bookout
Trustee Mary Bachran
Trustee William Bear
Trustee Karen Budinger
Trustee Samira Hart
Trustee Dave Knutson

Approval of Agenda

2. Approval of Agenda

Motion made to amend the agenda, removing July 9, 2019 minutes and tabling the audit presentation.

Motion made by Trustee Bear, Seconded by Trustee Bachran. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

Announcements

3. Announcements

Mayor Stewart confirmed a quorum will be available for the August 13, 2019 Regular Board meeting.

The auditing firm is not ready to present the audit. The Board may want to request an extension of submittal from the State.

Motion made to request an extension for 30 days.

Motion made by Trustee Hart, Seconded by Mayor Pro-Tem Bookout. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

Recognition of Visitors & Guests

1. Visitors & Guests

Delta County Updates – Elyse Akerman-Casselberry

- Delta County Land Use Plan

- DOLA Grant – Opportunity Zone Funding

Elyse Ackerman-Casselberry - Director of Economic Development for Delta County – was present to discuss topics with the Board of Trustees. A Land Use Regulation concept plan for Delta County was provided to the Board for review.

Ms. Ackerman-Casselberry requested time in the next 45 to 60 days to begin to update and refresh the Town and County intergovernmental agreement and the Highway 133 Plan.

Opportunity Zone

In 2018 the State was assigned the task of identifying which census tracts can be designated as an opportunity zone. Those designated have to be eligible as an economically stressed area. The Town of Paonia and a significant portion of the City of Delta meet the criteria.

An explanation of how opportunity zone projects are funded, ongoing discussions regarding a private/public investment opportunity with DOLA funds, developing a model on how to work on the problems associated with TABOR and other State and IRS requirements is underway.

The County is requesting support from the communities in a form of a monetary contribution.

Discussion ensued regarding the timeline for decision and funding, requesting between \$500 to \$1,000 from each community.

Visitors & Guests

Mayor Stewart opened the meeting for public comment and questions not on the agenda.

James Sorensen - Price Road - Read a letter provided to the Board of County Commissioners to the Board for the record, following Administrator Knights comments made at the July 9, 2019 meeting, where he stated the letter was intentionally inaccurate.

Christina Patterson - Price Road - Read a statement and formal complaint for the record and to the Board regarding an encounter she stated she had with Administrator Knight in front of her home on Price Road Friday, July 19, 2019, and asked Mayor Stewart and the Board how they plan to address the situation.

Mayor Stewart stated he believes it is appropriate to schedule an executive session to receive legal advice for any personnel matter regarding the Town Administrator. There may be a need to set a special meeting to deal with the issue in a thoughtful and appropriate manner. Town Attorney Nerlin confirmed the appropriateness of an executive session at a future meeting.

Motion made to schedule a special meeting for Tuesday July 30, 2019 at 6:00pm for executive sessions for legal counsel and personnel issues.

Motion made by Mayor Pro-Tem Bookout, Seconded by Trustee Hart. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

Barry Smith - Price Road - read a statement to the Board regarding his belief that the ongoing interaction and behavior of Administrator Knight is due to their participation in the Town local government and the incident with his wife, Christina Patterson.

Mayor Stewart stated to Administrator Knight that now is not the time to discuss the issue.

Kenneth Knight - Price Road - continued to address the Board after being advised to wait for the Board executive session. Mr. Knight stated the confrontation was not Town business and as a citizen he will address the Board. Mr. Knight gave a brief statement of the interaction and stated it is between neighbors, adding that if the Town tries to make it Town business, the Town will be discussing the issue "lawyer to lawyer".

Attorney advised the Board he would like to advise in an executive session.

Motion made to enter executive session for a conference with the Town attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b); pertaining to the current discussion.

Motion made by Trustee Knutson, Seconded by Trustee Hart. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

Returned to open meeting at 7:38pm.

In attendance were: Mayor Stewart, Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson, Town Attorney Nerlin.

No issues noted.

Attorney Nerlin read a statement explaining that an executive session special meeting has been scheduled and the Board will not be taking any action this evening. Attorney Nerlin requested staff and the Board refrain from discussing the matter raised at this time.

Lisa Delaney – Onarga Avenue – Provided information regarding her participation with Ms. Patterson following the incident and questioned how a Town employee living in close proximity of a project can participate and requested information regarding how the Town handles conflict of interest.

Bill Brunner - Stated he has handed in a citizen petition to place a moratorium on water tap sales. He believes bullying is an issue within the Town Administration and Board and provided examples he believes support his statement.

Chris Jacobson - Expressed his concern and stated when there is a Town Administrator, the Administrator is hired by the Board and has a lot of oversight. When the Board does not administer through their position it is an issue. The elected officials are the only recourse the community has regarding the Town appointed employees.

Bart Eller - Price Road - provided information to the Board regarding his experience with the previous Town Manager Jane Berry and requested the Board purchase back is taps.

Suzanne Watson – Stated she pleads with the Board to take a look at the forward progression of the Town and improve what we have instead of extending Town boundaries.

Consent Agenda

2. Minutes: June 24, 2019 – Special Meeting
Minutes: June 25, 2019

Motion to approve consent agenda as amended.

Motion made by Trustee Hart, Seconded by Mayor Pro-Tem Bookout.

Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

Mayor's Report

3. Mayor's Report
Attended BMW Rally closing ceremony. 545 attendees. Successful event.

Staff Reports

Town Administrators Report

4. Administrator's Report
Will be out of office 8/9/19 for jury duty.

Public Works Report

5. Public Works Report
 - Started watering park after Rally ended.
 - 2nd and Main Avenue water leak repaired.
 - Spring-line leak - parts ordered for repair.
 - Spilling at plants. Storage tanks are full, spilling at spring boxes.
 - Timeline of improvements included in packet. Process report also included.

Town Park is watered in 4 sections. Lee's Park watered 4 hours per section, 2 sections watered every two weeks. Apple Valley watered daily in sections.

Police Department Report

6. Police Report

- No issues during the BMW Rally.
- Deltarado Days this week. The PD will be Participating in Parade, booth and dunk tank on Saturday.
- Officers attending multiple trainings over next 2 weeks.
- Drone has been delivered, use for illegal marijuana grows only, obtained through grant funding only.
- Officer training to operate the drone is upcoming.

Suzanne Watson - questioned how the drone will be used and believes the community has the right to see how the drone will be used via policy.

Town Treasurer Report

7. Treasurer's Report

- Reviewed payroll and disbursements.
- Reviewed preliminary audit report.

Disbursements

8. Disbursements

Motion to approve disbursements as presented and discussed.

Motion made by Trustee Budinger, Seconded by Mayor Pro-Tem Bookout.

Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

Unfinished Business

9. Public Hearing - South Clark Avenue Subdivision

Applicant requests the Board continue the hearing to 8/27/19.

Motion to continue public hearing as requested.

Motion made by Mayor Pro-Tem Bookout, Seconded by Trustee Hart.

Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

10. Public Hearing: Greenbelt Addition

Public Hearing opened at: 8:10pm

Mayor Stewart provided an explanation of public hearing procedures.

Administrator Knight provided staff information and Planning Commission recommendation. The Planning Commission recommended approval with an E-1 zoning.

Staff recommends the Board annex with the Developing Resource zoning designation.

Charris and Dulcie Ford were present to provide information regarding the annexation request and stated reasons they request the Board approve annexation as applied for originally.

Board Questions:

- Pre-annexation vs. annexation
- Timeline for an annexation
- Neighborhood commercial use
- Special reviews

Public Comment:

Lisa Ganora - likes the idea of the open space walk by the river and loves the vision of the annexation request.

Naropa Sabine - excited with the application as presented.

Susie Lowe - supports the zoning and annexation as requested by the Ford's.

James Sorensen - Price Road - Not sure the Town's hurry to annex.

Patricia Walsh-Oienick - stated previously there would be no commercial out-of-town water taps sold. How would that affect them?

Public Hearing closed at 8:50pm.

Mayor Stewart stated it makes sense for the Town to continue to annex properties out to the Highway, granting Town input and control to the entryways to Town.

11. CHC – Bureau of Land Management – Revised Master Plan – Letter of Protest

Andrew Forkes-Gudmundson with Citizens for a Healthy Community (CHC) and Patrick Dooling with Western Slope Conservation Center (WSCC) co-presented the suggested edits to the Town protest letter, consistent with previous protest letters.

Mr. Forkes-Gudmundson provided an overview of the suggested changes.

Mayor Stewart reiterated his concern with the Board participating at the level necessary to be involved in the process and is uncomfortable because of parts of the letter he cannot verify.

Mayor Pro-Tem Bookout stated the oil and gas does not show up because they don't think they have to and the Board represents the community and they show up asking for Town participation.

Open to the public for discussion:

Four people spoke in support of the letter submitted and the groups who work to provide the information to the Board.

Melissa Munoz - implored Mayor Stewart to sign the letter on behalf of the “loud minority.”

Trustee Knutson and Mayor Pro-Tem stated they understand the pressure the Mayor feels and respects his right as an individual to not sign the letter.

Motion to extend meeting for 30 minutes.

Motion made by Trustee Bachran, Seconded by Mayor Pro-Tem Bookout. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

Motion to adopt changes as submitted by WSCC and CHC to the draft letter in protest to Resource Management Plan and authorize Mayor Pro-Tem Bookout to sign the letter along with Town Administrator Knight.

Motion made by Mayor Pro-Tem Bookout, Seconded by Trustee Knutson.

Motion made to amend motion to include any Board member be able to sign if the wish to.

Motion made by Mayor Pro-Tem Bookout, Seconded by Trustee Knutson. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Budinger, Trustee Hart, Trustee Knutson. Voting Nay: Trustee Bear.

Main motion as amended. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Budinger, Trustee Hart, Trustee Knutson. Voting Nay: Trustee Bear.

A five-minute recess was called.

New Business

12. Western Slope Conservation Center – Letter of Support – Community Conservation Proposal

Motion to continue items 13, 16, 17, 19, move item 23 above Highway 133 Corridor formula business.

Motion made by Mayor Pro-Tem Bookout, Seconded by Trustee Bachran. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

13. Acceptance of 2018 Audit

Tabled.

14. 2020 Budget Calendar

Motion to accept the budget calendar as presented.

Motion made by Trustee Bachran, Seconded by Trustee Hart.

Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

15. Resolution 2019-12 - Greenbelt Addition Finding of Fact

Mayor Stewart provided information to the Board and public regarding Resolution 2019-12 - Finding of Fact.

Motion to adopt Resolution 2019-12 as presented.

Motion made by Trustee Budinger, Seconded by Trustee Hart.

Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

16. Ordinance 2019-05 – Business Registration

Tabled.

17. Ordinance 2019-06 – Home Occupation Process

Tabled.

18. Ordinance 2019-07 - Greenbelt Addition Approval of Annexation

Mayor Stewart provided information to the Board and public regarding Ordinance 2019-07 Approval of Annexation.

Motion to adopt Ordinance 2019-07 as presented and approve the sale of water and sewer tap.

Motion made by Mayor Pro-Tem Bookout, Seconded by Trustee Bachran.

Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

Motion to extend the meeting by 30 minutes.

Motion made by Mayor Pro-Tem Bookout, Seconded by Trustee Knutson. Voting Yea:

Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Budinger, Trustee Hart, Trustee Knutson. Voting Nay: Trustee Bear.

Motion to reconsider approval of ordinance 2019-07 and the sale of water and sewer tap. Motion withdrawn.

Motion to add zoning ordinance item 19 back to the agenda.

Motion made by Trustee Knutson, Seconded by Trustee Bachran. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Hart, Trustee Knutson.

Trustee Hart left the meeting at 10:10pm.

19. Ordinance 2019-08 - Greenbelt Addition Zoning

Motion made to adopt Ordinance 2019-08 as presented, with a zoning designation of Developing Resource.

Motion made by Mayor Pro-Tem Bookout, Seconded by Trustee Knutson.

Motion to amend main motion to include Neighborhood Commercial Use.

Motion made by Trustee Bachran, Seconded by Trustee Knutson. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Knutson.

Main motion as amended. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Knutson.

20. Discussion of a Moratorium on Development Along Highway 133 Corridor

Town Attorney Nerlin described the impetus for the moratorium discussion. Concern noted: unintended consequences and community process.

The moratorium ordinance will go to the Planning Commission for review July 31, 2019 and to The Board of Trustees at the special meeting August 1, 2019.

Discussion ensued regarding how the moratorium would impact annexed and to-be annexed properties within the 133 Corridor.

Motion made to direct Town Attorney Nerlin to draft a proposed ordinance to institute a moratorium in area A along Highway 133 corridor for 90 days.

Motion made by Mayor Pro-Tem Bookout, Seconded by Trustee Bachran. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Knutson.

21. Ordinance 2019-TBD – Zoning Amendment – Highway 133 Corridor – Formula Businesses

Discussion ensued regarding prohibiting and special review processes.

Formula businesses already open in Town were provided. Mayor Stewart advised the Board and public to be cautious to the fact that there are many formula businesses and the real issues are big box establishments.

Trustee Bachran asked if the draft ordinance could include verbiage that the developing entity would need to be bonded and would have to remove abandoned buildings.

Motion to extend meeting 30 minutes.

Motion made by Mayor Pro-Tem Bookout, Seconded by Trustee Budinger. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Knutson.

22. Ordinance 2019-TBD – Highway 133 Overlay

Discussion ensued regarding the draft submitted and the goal to create an overlay district incorporating the corridor plan in to the Town zoning. Attorney Nerlin provided an overview of included requirements in the overlay.

Thomas Markle - noted typos and addressed earlier concern regarding the impact of language specific to the storage of fertilizer.

Charris Ford - Stahl Road – added that compost is being recognized as fertilizer.

23. Bill Brunner – Request Regarding a Citizen Initiative for a Moratorium on Water Tap Sales

Mr. Brunner provided the Board information regarding his citizen initiative for a moratorium of water tap sales and requested the Board move forward on the initiative.

Trustee Knutson - feels railroaded to push a moratorium when not convinced it is necessary.

Trustee Bachran – agrees with Trustee Knutson, stating she read the reports, the first study is enormously flawed with huge predictions, and even at the lowest projection rate the data is off. To base laws on twenty-year-old studies is flawed methodology and believes while the Town is out for proposals for a study the Town should not place restrictions.

Mayor Stewart added the issue is important and decisions and current facts and data are being collected.

Trustee Bear – Noted concern with laws that state if you don't use the water you lose it. Others could call on the water during a moratorium.

Motion to extend the meeting for 10 minutes.

Motion made by Trustee Knutson, Seconded by Mayor Pro-Tem Bookout. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Knutson.

James Sorensen – Questioned what the harm would be in placing a moratorium until the system analysis is complete.

Dulcie Ford - consider looking in to the moratorium issues in case there is a significant interest.

Committee Reports

24. Finance & Personnel

25. Public Works/Utilities/Facilities

26. Governmental Affairs/Public Safety

27. Space to Create

28. Tree Board

Continued.

Adjournment

29. Adjournment

Motion to adjourn.

Motion made by Trustee Bear, Seconded by Trustee Bachran. Voting Yea: Mayor Pro-Tem Bookout, Trustee Bachran, Trustee Bear, Trustee Budinger, Trustee Knutson.

J. Corinne Ferguson, Town Clerk

Charles Stewart, Mayor

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