

Minutes
Regular Town Board Meeting
Town of Paonia, Colorado
April 25, 2023

RECORD OF PROCEEDINGS

Mayor Bachran calls the meeting to order at 6:35 pm.

Roll Call

PRESENT

Mayor Mary Bachran

Trustee/Mayor Pro-Tem Thomas Markle

Trustee Dave Knutson

Trustee Paige Smith

Trustee John Valentine

ABSENT

Trustee Rick Stelter

Correspondence Received

No comments made.

Approval of Agenda

Trustee Smith makes a motion, Seconded by Trustee/ Mayor Pro-Tem Markle to move items 10 and 12 up to be items 2 & 3.

Trustee Smith explains that since items 10 & 12 were left from the last regular meeting after they lost their quorum, she would like to see them dealt with earlier.

The motion carries unanimously.

Announcements

No announcements from the Board

Public Comment:

W. Brunner: Finance situation a mess, delivering a citizen's initiative to require a forensic audit of the books for the last two years.

Town Clerk receives the Citizen's Initiative and records the time and date of filing.

Trustee Knutson reminds the community of the Master Plan public session on Thursday 4/27 at 5:30 pm at Town Hall, pizza to be served at 5 pm.

Trustee Smith asks that the Master Plansession be recorded for those who cannot be there.

Trustee/ Mayor Pro-Tem Markle announces Citizens Water Committee meeting April 26 at 5:30 pm at Town Hall.

Public Comment

S. Watson: glad to see the big dig on Delta and the leak under the track fixed, wonders if the citizen next to it with a leak issue has had help mitigating her issue.

Consent Agenda

Trustee Smith makes a motion, Seconded by Trustee Markle, to accept the consent agenda.

Town Clerk Vetter makes note of changes made to Minutes for the record:

- March 14th, under Administrators report finished a sentence to say "...the priorities identified during the work session."
- March 28th minutes, page 32 of the packet: inserted the agenda item titles after the numbers.
- March 28th minutes, added Trustee Smith's vote of Aye under the topic of the Town Administrator search.
- March 28th minutes, under School discussion, reworded Trustee Smith's comment to "She doesn't feel like it was worth the issues it has caused with public distrust."

Trustee Smith asks a question about paperwork with the Curiel LLC liquor license renewal and Town Clerk Vetter confirms the application is complete but all of it might not have made it into the packet.

Disbursements:

Trustee Smith also notes that Staff is aware that a motion had been made about Departments being included on payroll disbursement forms and it will be forthcoming as soon as staff can work it out with Caselle. She then asks if anyone has any questions about disbursements since they are all included.

Trustee/ Mayor Pro-Tem Markle comments that he does like that more detail is included on the disbursements, including invoice allocation.

Trustee Smith explains that while it takes longer to go through this way, it does show how much allocation happens between the funds and thinks it would be helpful for it to continue that way.

Motion carries unanimously.

Trustee Knutson notes the OWL system is being used for the first time and thanks Mayor Bachran and Administrative Assistant Ruben Santiago for getting them set up.

Trustee Smith thanks Trustee Valentine for doing the research to upgrade the system.

Mayor Bachran explains it is a work in progress and still not set up fully but should be finished in the near future.

Staff Reports

Interim Town Administrator:

Explains significant flooding risk and asks that the community please take the danger seriously. There is a flood page on the town website (<https://townofpaonia.colorado.gov>). Please help by maintaining your ditches and culverts, keep your eyes and ears open and report flooding to Town Hall or Delta Dispatch and look out for your neighbors! She stressed talking to your kids about not being close to ditches and river banks and the danger of unstable banks.

Thanks to Ruben Santiago, Trinity Santiago, JoAnn Katzer and Candy Wuollet for labelling and mailing over 1000 flood flyers to the community.

Public Works Director Heiniger and Interim Administrator Klusmire explain that the water plant shuts down only when the tank is full and before the leak under the railroad tracks was fixed it would shut down for about four hours at night. Since the repair has been complete, the water tanks shuts off for around 9 hours a night which is a significant improvement.

Trustee/ Mayor Pro-Tem Markle asks about the citizen meter pit issue on Delta Avenue that was brought up by a citizen earlier. Director Heiniger explains the issues with addressing that problem including equipment cost, and the fact that it crosses private property and the Town needs permission to access it.

JDS Hydro/ Respec will be giving moratorium lift update at the next Board Meeting.

There is a DOLA training work session with Dana Hlavac on May 4th, 2023 at 5:30 pm

Interim Town Administrator Klusmire states that she would like to dispel rumors about missing money, there is no indication of funds being missing. She goes on to explain how Governmental Accounting works and that they are not only working with Professional Management Solutions but working with CIRSA and the Police Department and there is no evidence of theft.

She goes on to talk about how the funds will likely be set up, what budget to actuals will look like, and when work is complete there will be consistent financial reporting, they will be easier to understand, and more financial transparency.

She also reminds the Board that she will be travelling the next couple of weeks for personal reasons.

Trustee Knutson expresses what he would like to see with the budget statements and project tracking.

Trustee Smith asks about occupational tax from marijuana revenue and how it will be tracked.

Administrator Klusmire gives a brief explanation of who Michelle Duran is and her qualifications.

Town Clerk Vetter lets the Board know that since they like the amount of detail in the disbursements, she will not change it.

Trustee/ Mayor Pro-Tem Markle adds that he would like the more detailed minutes to continue and appreciates the time put into it.

Actions & Presentations

Other Items

1. Consideration of approval of Pickleball Tournament at Apple Valley Park – Max Heepke

Max Heepke presents his idea for Pickleball Tournament and talks about the community that uses them. He wanted to introduce the tournament idea in Apple Valley Park to the Board before they submitted the Large Park Event application. They plan on a double's tournament, varying degrees of skill, taco truck, vendors and music.

Public Comment:

R. Kokernot: Pickleball is fastest growing sport in the world, 40% more players in recent years, putting Paonia pickleball court on the map. It is a great sport, tournament will bring good revenue. Please approve.

P. McCarney: Pickleball changed my life and health, has back issues, helped exercise without added injuries. It provides cross generational experiences and many other benefits. If people are going to come to the tournament, lets show them Paonia flavor, let them experience Paonia through food and music while doing a nice event at Apple Valley Park.

S. Gulick: Been playing pickleball for 10 years, it is booming more than tennis and he would say it is the main sport in Paonia now.

C. Ostrander: Also plays because it is less strenuous than some sports and past injuries are benefiting from Pickleball. Event will help people get out to Apple Valley Park and maybe see/learn a new sport. Very diverse community of players. Please update bathrooms.

Trustees ask questions about what differences there are from other Large Park Events, whether staff foresees any issues.

M. Heepke explains that he wanted to open communication about a new event and gauge support.

Trustee/ Mayor Pro-Tem Markle asks that they please keep the event community focused as opposed to tourism focused.

Trustee Knutson asks that they please be mindful of alcohol limitations.

10. Recommendations from Planning Commission for Zoning/Building proposed code changes

Mayor Bachran gives background on the issue and how the Planning Commission took it up and looked over it closely.

Public Comment:

S. Watson: Ch. 18- signs- disagrees with suggestions, it all has to do with Land Use and needs to go back to zoning. explains multiple deficiencies to the suggestions to move some of these things to building. Please restore to how it was and then work on it.

W. Brunner: Thank you S. Watson...stop hacking up the code, get planning commission several months of training, and then look at things with professionals.

Trustee Smith makes a motion, Seconded by Trustee. Mayor Pro-Tem Markle to restore all of it back to the Zoning Code.

Trustee Knutson suggests asking Administrator Klusmire, who has a lot of experience with Land Use what her opinion is.

Interim Town Administrator Klusmire says the Code needs a comprehensive revision and it needs to be done by professionals.

Trustee Smith withdraws her motion and asks instead to table the decision until they can have the Interim Town Administrator and the Town Attorney look at them.

Trustee/ Mayor Pro-Tem Markle asks for update on plan to share a building inspector with Delta. Administrator Klusmire explains that Delta lost their building inspector and while the agreement still stands, it cannot be implemented until the position is filled.

12. Discussion of CML request to Oppose SB 23-213 and approval of opposition Resolution and Letter

Interim Town Administrator gives background of the bill being opposed; changes that have been made due to opposition. Colorado Municipal League has sent update on it and opinions from legislators that it is not an affordable housing bill but instead taking land use rights away.

Town Attorney Cotten-Baez explains that local control is huge issue in this bill, and it doesn't guarantee any level of affordable housing. ADU's are permitted with this Bill, more density, effectively limit local growth management and it doesn't take municipal utilities into account. He believes that what is best for Paonia is focusing on the ADU's and to do it in a way that is best for our community.

Public Comment:

S. Watson: this is wildly unpopular it seems not likely to pass, sunlight and gardening is important to smaller areas. Thank you for supporting opposition to this.

Board:

Trustee Knutson makes a motion, Seconded by Trustee Smith, to go on record opposing bill in its original form but not including inflammatory language.

Motion is withdrawn.

Trustee Knutson makes a motion, seconded by Trustee Smith to approve Resolution in the packet and delegate letter writing to Trustee Smith and Trustee Knutson.

Trustee/ Mayor Pro-Tem Markle says he likes the letter the way it is written.

Aye: Trustee Knutson, Trustee Valentine

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

Mayor Bachran breaks the tie: Nay

The motion fails.

Trustee/ Mayor Pro-Tem Markle makes a motion, Seconded by Trustee Smith, to approve the letter and resolution as is.

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

Nay: Trustee Knutson

The motion carries.

2. Review and consideration of approval for Urban Rural Continuum contract.

Public:

S. Watson: Please do the mailing for that subsection we aren't reaching. Mail is the Gold standard. Would be nice to have a frank not public way of talking to these people. What are we wanting to do for growth? Do we want to grow?

Board

Trustee Knutson makes a motion Seconded by Trustee/ Mayor Pro-Tem Markle to approve contract without the optional add on's, with coordination clause, and designated Trustee's

Trustee/ Mayor Pro-Tem Markle asks if the study can focus on the citizen's before out of towners. It would be helpful if we could reach out to displaced citizens, and find out why they left? Let's use this study for good.

Trustee Smith discusses need to have cross communication about coordinating with Master Plan group and wants that in the contract. She would also like to know if one of the Board positions given on the committee, could be designated as the person providing direction to the contractors.

Trustee Smith volunteers to be on the committee.

Trustee Knutson also volunteers as he is on the Planning Commission.

Board discussion includes meeting times and changes to contract.

Trustee Knutson makes a motion, Seconded by Trustee Smith to amend the main motion to include Trustee Knutson and Trustee Smith.

Motion to amend carries unanimously.

Main motion: to approve contract without the optional add on's, with a coordination clause, and Trustee's Smith and Knutson as the designated Trustee's.

Motion passes unanimously.

3. Decision to repeal or send to Special Election: Section 1 of Ordinance 2023-02: Clarifying the moratorium of water tap sales by the Town by Referendum Petition.

W. Brunner: wants to know if he can be apart of the conversation

Public:

S. Patterson: People wanted to sign, appreciate the moratorium, understand the necessity of the moratorium. Want services corrected and functioning before development.

S. Watson: Appreciates the moratorium being in place and doesn't like any appearance of loosening. Lots broken: Code, finance situation, failing infrastructure. Please do not act in haste.

Board Discussion:

Interim Town Administrator explains she is confused by the referendum, the new language prevents ANY water extension and now she is able to say 'no' and does, weekly.

The clarification makes the moratorium stricter, individual interpretation doesn't matter in court; the code does. She believes that repealing this will weaken the moratorium because we have to go by what it says.

Trustee/ Mayor Pro-Tem Markle requests that the Town Attorney share what his interpretation is.

Town Attorney Cotten-Baez explains that his intention was to strengthen the moratorium and to make the restrictions clearer and defensible.

W. Brunner asks to be allowed to make a statement at this time and explains his problems with the clarifications ordinance.

1. He believes it is a bad idea to let the board muck around with a Citizen Initiative.
2. The definitions used ties the moratorium to the worst parts of the water code: pipe size and individual meters; which is also the most violated part of the ordinance.
3. Does like that it puts in what was left out by his attorney, which is that this trumps all other code.

He feels like the first moratorium was definitive enough.

Trustee Smith explains that one of the original definitions has allowed people to bypass the moratorium and asks why the clarification is bad when the new language has allowed the Town to stop people from adding use even with lawyers being hired?

Interim Administrator Klusmire explains how the former language made it problematic for her before the clarification.

W. Brunner disagrees and states the issue can be left to the voters to decide.

Trustee/ Mayor Pro-Tem Markle asks if it is possible to incorporate the original moratorium, clarification and the referendum language to solve the issue.

Town Attorney Cotten-Baez states that he agrees that the water code has many issues and with what he is hearing from the petitioners, if the Town moves quickly, this option could be explored and still leave time for the Resolution for Special Election and ballot language to be prepared if it doesn't satisfy the petitioners concerns.

Trustee/Mayor Pro-Tem Markle makes a motion, Seconded by Trustee Smith, to direct the attorney to produce an example incorporating the language from the referendum petition, Ordinance 2023-02 Clarifying the moratorium of water tap sales by the Town and the original moratorium as fully as possible.

Trustee/ Mayor Pro-Tem Markle explains that he doesn't feel the elements of the motion are incompatible and with further clarification the special election can be avoided, and the moratorium can still be strengthened and continue with its intended purpose.

Discussion continues between Trustee's, Town Attorney, Interim Administrator and the petitioners about the differences in language and definitions that cause the problems and how it can potentially be fixed to mutual agreement.

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

Voting Nay: Trustee Valentine

The motion carries.

4. Resolution 2023-04 Declaration of Board of Trustees Vacancy

Trustee/ Mayor Pro-Tem Markle makes a motion, Seconded by Trustee Smith to accept Resolution 2023-04

The motion carries unanimously.

Trustee/ Mayor Pro-Tem Markle makes a motion, Seconded by Trustee Knutson to take a 5-minute recess.

Motion carries unanimously

Meeting resumes

Mayor Bachran points out that there are conditions that need to be set in Resolution 2023-04 Declaration of Board of Trustees Vacancy.

The Town Attorney explains the timeline and statutory requirements.

Trustee/ Mayor Pro-Tem Markle makes a motion, Seconded by Trustee Knutson to amend Resolution 2023-04 part 3, to say not later than 14 days, not later than May 9th, 2023

Motion carries unanimously.

5. Board meeting procedures discussion

Mayor Bachran asks if after a few months of running the meeting with new procedures there are any changes the Board wants to make.

Public Comment:

W. Brunner: The current way is an insult to the community, one good thing about Paonia is being able to have your say, recent issue with financial issues makes me feel vindicated. Stop stifling public comment. The response is what is important to the discussion. I urge you to go back to the public speaking after Board discussion way.

S. Watson: agree with W. Brunner and would have decided differently on the Referendum Petition item if she had heard the discussion first. Leslie is valuable to the Town because of the new systems. Still are not well developed packets. Might be a good comparison to go back to the old way.

Board Discussion:

Trustee Knutson: We are elected to represent; represent everyone not just the ones who are talking the loudest. I think we are on different pages and we should be representing them and deliberating with each other. Appreciate the public input and but the format from before exacerbates issues because of reacting.

Trustee/ Mayor Pro-Tem Markle: When did open public comment start? Doesn't care what other places do, he likes the way we used to do it because all of that community knowledge can be used. Eliminating the back and forth hurt us as a Board. We need good chairing, if it isn't going to be enforced it doesn't matter what we do. Propose that we follow Robert's Rules, everyone get a time to speak, motion maker first, go to public, go to second round, then public, then vote. It works to ease confrontation.

Trustee Smith agrees with Trustee/ Mayor Pro-Tem Markle and wants to take disbursements out of consent agenda so public can comment on it.

Trustee Valentine makes a motion, Seconded by Trustee Smith, to continue the meeting to 10 pm

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

Nay: Trustee Knutson

The motion carries.

Trustee Valentine: we invoke the public and give a forum to people who have agenda's and the other public; stays away from meetings because of conflict, scheming, and general conflict. Hesitates to buy into the public argument, until we are talking about all of the public and not just allowing a small group to attack and vent. Has been to a lot of meetings where you have to sign up to speak and they are effective as well, not buying into the public argument.

Mayor Bachran suggests that they wait to make changes until the new Trustee is appointed and has done some meetings under the current format.

Trustee Knutson makes a motion, Seconded by Trustee Smith to move on and not decide tonight.

Aye: Trustee Smith, Trustee Knutson, Trustee Valentine

Nay: Trustee/ Mayor Pro-Tem Markle

6. Consideration of approval of contracting ADP for Payroll and HR services

Trustee/ Mayor Pro-Tem Markle makes a motion, Seconded by Trustee Knutson to approve contracting ADP for payroll and basic HR services.

Motion carries unanimously.

7. Consideration of approval of ESRI Renewal Contract

Interim Administrator Klusmire states that she is encouraging bringing all contracts to Board for approval.

Public Works Director Heiniger states for the record that the ESRI GIS mapping is a very valuable tool and they use it all the time.

Trustee/ Mayor Pro-Tem Markle makes a motion, Seconded by Trustee Knutson to approve the ESRI Renewal Contract

The motion carries unanimously.

8. Consideration of approval to hire hourly seasonal worker to plant and tend flower beds downtown.

JoAnn Katzer has volunteered to water, Chief Laiminger approved

Trustee Smith and her husband Shane would design and plant but would like to make sure the flowers were watered.

Interim Administrator Klusmire states that they need to talk to Town Attorney about the labor law liability before they go that route.

Trustee Smith says the other option is to hire by contract and they could also do work on peony beds at Town Park as well.

Public:

W. Brunner: budget has doubled, enough is enough, let them plant their own flowers, people can't pay their water bills, don't hire anyone else.

S. Watson: I have to maintain my own right of way, trees and so on. Would like to see volunteer work from shopkeepers for the gift of flowers. Parks contractor used to do this stuff; we should aim higher.

L. Howe: we did lots of volunteer work on garden and would like to see more volunteer. One person to coordinate some volunteers.

S. Patterson: Do not add any more things, take care of what we have now, don't start new stuff, when we have old things not being maintained.

Board:

Trustee/ Mayor Pro-Tem Markle echoes that property owners should have to maintain them. Get the shop owners to help.

Trustee Smith makes a motion, Seconded by Trustee Valentine, to continue to another meeting.

The motion carries unanimously.

9. Board discussion of Town position of Jumbo Mountain Trail

Trustee Knutson notes that the issue is outside of the comment period but feels the Town should have a position since it includes Apple Valley Park.

Public Comment:

L. Howe: Western Slope Conservation Center had a large gathering about this, look at their suggestions, please stand up against OHV on trails.

W. Brunner: uses Jumbo Mountain all the time and stays away from it during animal sheltering times. Green Gate prohibits guns going through, shouldn't sign off on this. Specific planning 101, two neighborhoods having culverts shouldn't have shut that down.

R. Beers: No sidewalks in Apple Valley, parking is an issue with how much use the trail gets. Consider the area.

Trustee Smith says she cannot comment since she doesn't have enough information and it is moot since they cannot do anything without us.

Trustee Smith makes a motion, Seconded by Trustee Knutson, to extend the meeting for 5 minutes.

Aye: Trustee Smith, Trustee Valentine, Trustee Knutson

Nay: Trustee/ Mayor Pro-Tem Markle

Board discussion on Pan American and Apple Valley Park

Trustee Knutson will draft comments and bring back to the Board.

11. Discussion of Sidewalk fee ballot renewal language

Board would like this to come back at another meeting

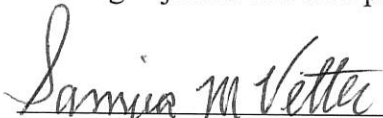
Trustee Smith makes a motion, Seconded by Trustee Knutson to have data on what sidewalks have been fixed and when; included in the packet.

Motion carries unanimously.

Mayor & Trustee Reports

Adjournment

Meeting adjourns at 10:11 pm



Samira M Vetter, Town Clerk





Mary Bachran, Mayor