

Minutes
Regular Town Board Meeting
Town of Paonia, Colorado
July 28, 2020

RECORD OF PROCEEDINGS The Regular Board Meeting held Tuesday via zoom, August 2020, was called to order at 6:30 PM by Mayor Mary Bachran, followed by the Pledge of Allegiance.

Formal Record Video at: <https://www.youtube.com/watch?v=ctfYuGQTGrg>

* correction
in-person
July 28, 2020
(8)

Roll Call

Roll Call

PRESENT

Mayor Mary Bachran

Trustee William Bear

Trustee Karen Budinger

Trustee Dave Knutson

Trustee Mick Johnson

Trustee Tamie Meck

ABSENT

Trustee Michelle Pattison

Approval of Agenda

Agenda Approval

Motion made by Trustee Knutson, Seconded by Trustee Budinger, and unanimously carried to approve the 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				

Announcements

Recognition of Shop Safe Shop Local Businesses.

Mayor Bachran and the Board of Trustees presented a certificate of appreciation to the Paradise Theatre, Farm & Home, Hay's Drug Store, Paonia United Brewing, Indigo Autumn, The Cirque, Louie's Pizza, and Ollie's Ice Cream for adhering to the COVID 19 state mandates and regulations for wearing mask/face coverings, and keeping our community safe while shopping.

Recognition of Visitors & Guests

Visitors & Guests

Community members discussed the reason behind why they are not in favor of having the trees on the block of Box Elder Avenue removed.

Discussion points:

- Trees provide shade and value to the property
- Requesting the Town not to charge the homeowners for sidewalk repairs.
- Transparency in communication regarding the tree removal issue.
- Suggested the forest service assess the trees first.
- Suggested that Street signs and sidewalks be assessed for ADA compliance.
- Suggested sidewalks need to be maintained.

Council Member	Executive session attendees:
Trustee Bear	X
Trustee Budinger	X
Trustee Johnson	X
Trustee Knutson	X
Trustee Meck	X
Trustee Pattison	X – via zoom
Mayor Bachran	X
Town Attorney Bo Nerlin	X
Attorney Nick Poppe	X – via phone

- Suggested slowing the tree removal to repair sidewalks projects to be able to have a public meeting about the issue.

Board & Staff comments:

- Suggested having a public meeting with the Governmental Affairs & Public Safety, and the Tree Board in the future about the removal of trees.
- Waiting to have additional public meeting will delay scheduled contractors.
- The issues have been long and substantially delayed and action needs to be taken for safety of community as well as proper care of Town infrastructure.

Executive Session

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); specific to U.S District Court Civil Action #20-CV-01389-STV - Eric Pace v. Town of Paonia.

Motion made by Trustee Bear, Seconded by Trustee Budinger, and unanimously carried to enter into 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); regarding U.S District Court Civil Action #20-CV-01389-STV - Eric Pace v. Town of Paonia.

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				

Entered executive session - 7:00 pm

Returned to open meeting - 8:03 pm

Oath of Office

Oath of Office

In accordance with Resolution 2020-13 Oath of Office for the Town Clerk, Treasurer, and Attorney were sworn in on July 28, 2020.

- Attorney Nerlin swore in Ms. Corinne Ferguson as the Town Clerk.
- Town Clerk Ferguson swore in Bo Nerlin as the Town Attorney and Ross King as Treasurer.

Officer Brian Berger - Oath of Office

Administrator/Town Clerk Ferguson swore in Police Officer Brian Berger as the new police officer for the Town of Paonia.

Staff Reports

Administrator's Report:

- The Poulos Park back wall was painted.

- The recent tree planted in Poulos Park was delivered as a Sensation Box Elder tree instead of a nonfruiting Crab Apple tree.
- The Sensation Box Elder tree will be relocated to Lee's Park.
- Delta - Montrose Electric Association (DMEA) has currently replaced 70% of lights with the Dark Skies approved lights.
- Received feedback regarding the new Dark Skies approved lights and will be assessed individually on a case by case when the installation is complete.
- Elyse Ackerman-Casselberry, Delta County Community & Economic Development Director requested a joint meeting with the Planning Committee and the Board of Trustees. Meeting to be scheduled on August 20, 2020.

Public Works:

- Spilling 40,000 at the 1 million tank.
- Spilling 30,000 at the 2 million tank.
- Request for proposal (RFP) out on Friday for the culvert repair

Board & Staff discussion points:

- Trustee Bear commented on installation of the school meter timeline - Public Works Director Loberg stated that the meter has been ordered and is waiting on delivery.
- Trustee Knutson commented on who will be the responsible party for the ditch repair - Administrator Ferguson stated they are gathering data cost information once all the data is collected will begin to contact the ditch company to discuss.

Trustee Pattison's comments:

- The status of the water treated, and water spilled spreadsheet. Public Works Director Loberg stated that the spreadsheet is in the works.
- The status of the asset inventory. Public Works Director Loberg stated asset inventory is in the mapping stage and the mapping of the sewer and water been completed.
- After action report on the water line break on O road. Public Works Director Loberg stated that a report will be provided.
- Status of the spring line project. Public Works Director Loberg stated that one side of the project has been completed and the rest of the project is in the process of getting completed.
- Trustee Meck commented on the status of the bulk water station. Public Works Director Loberg stated that he has received one quote to retrofit the current system and a second one from the current systems company.

Police Report:

- The new police officer Brian Berger will be a great asset to the police department.
- Report included in packet.

Board comments:

- Trustee Johnson commented on the number of police calls on the police blotter. Chief Neil Ferguson stated that most calls are either animal control or a dog nuisance call.
- Trustee Johnson commented on the status of boarding for dogs. Chief Ferguson stated that the situation with the boarding of dogs is still in the negotiation stage and will be brought back to the Board.
- Trustee Knutson commented what the process is for code enforcement. Chief Ferguson explained the process for code enforcement.

Attorney Report:

- Discussed the update of the Municipal Officer Appointments - included in the packet.
- Discussed the new model traffic code ordinance - included in the packet
- Discussed the new update to the Senate Bill.
- Discussed training for the new board members regarding the legislative update - training to be scheduled.

- Requested to set a special meeting/executive session for the case of Eric Pace.

Motion made by Trustee Bear, Seconded by Trustee Knutson, and unanimously carried to set a special meeting with an executive session on August 04, 2020 at 5:00 pm.

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

Spiegel Fence Variance – Refund of Fees Administrative Request:

Administrator Ferguson requested the Board to refund the amount of \$141.85 back to Ms. Deborah Spiegel.

Board & Staff discussion points:

- Discussed the out of the pocket cost of the Town - certified mail and staff time.
- Discussed what should be the appropriate refund.
- The cost and recommendations for Ms. Spiegel's refund were in the packet.

Motion made by Trustee Knutson, seconded by Trustee Budginger to approve staff recommendations.

Main motion amended made by Trustee Bear, Seconded by Trustee Meck, to waive the \$50 fence review application fee and recover all out of pocket expenses of \$116.30 and refund the total of \$133.30.

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				

Grand Avenue Saturday Street Closure Request:

Discussion ensued on the closure of Grand Avenue. Local businesses are requesting to continue the street closure to attract business with outside sales.

Public comments:

- Amy DeLuca stated that the Creative Coalition is working on the insurance for the popup vendors.
- Creative Coalition Director Heidi Hudek is requesting to have 15 extra booths and has reviewed the COVID-19 guidelines.
- Creative Coalition is requiring a sales tax number from their vendors to participate.
- Vendors would be set up in front of the businesses that would not be affected.
- Amy Deluca commented that the food trucks would like to participate in the event and stated that she has spoken to the businesses regarding their insurance coverage over into the outside of their businesses.

Board & Staff discussion points:

- Insurance and if the Town would be liable for incidents
- Discussion on the fees waived-in-kind match with CDOT
- Collection of sales from the vendors - vendors do collect sales tax
- Trustee Bear was concerned with the insurance and the Town's liability.
- Trustee Pattison suggested having businesses sign a waiver. The Town Attorney did not recommend it.
- Mayor Bachran suggested that the business only operate on the sidewalk and not the street.

Motion by Trustee Bear, seconded by Trustee Knutson, and unanimously carried to allow the street closure and the businesses must furnish proof of insurance to the 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				

Motion by Trustee Bear, seconded by Trustee Knutson, and unanimously carried to waive all fees associated with the street closures for all the weekend closures.

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				

Paonia Skate Park Update:

Administrator Ferguson provided details on the summary that was in the packet.

Board & Staff discussion points:

- GOCO grant would be submitted in March 2021
- Trustee Knutson is not in favor of the in-kind and out of pocket cost
- Trustee Johnson concerned with the cost of insurance
- Trustee Pattison concerned with operation of the equipment by non-employees

Public comment & Concerns

- Increase in traffic in the area
- Noise from the skateboards
- Enforcing the skate park rules
- Concerned with the maintenance of the skate park

Motion by Trustee Budinger, seconded by Trustee Johnson, and unanimously carried to extend the meeting until 10:00 pm.

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				

Comment Letter – Colorado Oil & Gas Conservation Commission Mission Change Rulemaking:

- Trustee Knutson informed the Board members regarding the update on the Colorado Oil & Gas Conservation Commission.
- The comment letter is due by August 14th, 2020

Motion by Trustee Budinger, seconded by Trustee Johnson, and unanimously carried with (1) one nay to adopt the comment letter as is.

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 2020-14 Supporting Delta County Law Enforcement and the Back the Badge Sales Tax Initiative:

Administrator Ferguson in the absence of Chief of Police, provided some data regarding the Back the Badge summary notes.

Board & Staff discussion points:

- Chief Ferguson would like to provide a community outreach program
- Paonia PD has the lowest-paid wage in the Western Slope
- The Town of Paonia is the only community to have a school resource officer
- Trustee Pattison was not in favor of Back the Badge currently
- The use of the sales tax
- Resolution 2020-14 - Back the Badge was included in the packet.

Motion made by Trustee Knutson, Seconded by Trustee Bear, and unanimously carried to go on record with the Town of Paonia to support Back the Badge.

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				

Ordinance 2020-TBD Update to 2020 Model Traffic Code for Colorado

- Chief Ferguson discussed the update to the 2020 Model traffic Code for Colorado. The model traffic code documents and the ordinance were included in the packet.

Board & Staff discussion points:

- Under Sec. 8-1-40 paragraph (b) needs to be stricken.

Motion made by Trustee Budinger, Seconded by Trustee Bear, and unanimously carried to adopt Ordinance 2020-TBD Update to 2020 Model Traffic Code for Colorado.

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				

Ordinance 2020-07 Modification of Municipal Code Regarding Appointment of Officers
was included in the packet.

Motion made by Trustee Knutson, Seconded by Trustee Budinger, and unanimously carried to adopt Ordinance 2020-07 Modification of Municipal Code Regarding Appointment of Officers.

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				

2021 Budget Calendar Review and Approval

The 2021 budget calendar was included in the packet.

Motion made by Trustee Meck, Seconded by Trustee Budinger, and unanimously carried to approve the 2021 budget calendar.

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				

Retail Marijuana Tax Initiative Language

- Discussion ensued regarding the purposed language for the retail marijuana sales tax initiative and Town Attorney Nerlin's memo was included in the packet.

Board & Staff discussion points:

- Concerns about the transaction fee.
- Discussion on whether marijuana will be medical or recreational - Town Attorney Nerlin suggested specifying the type of marijuana sales permitted.
- The Town Attorney suggested that he participate with Governmental Affairs and Public Safety regarding the retail marijuana tax initiative language.
- Locations of the retail marijuana - zones are limited to C1-C2.
- Concerns about voters not understanding the language on the ballot. Mayor Bachran suggested keeping the language simple.

Motion made by Trustee Knutson, Seconded by Trustee Budinger, and unanimously carried to send the Retail Marijuana Tax Initiative Language back to the Governmental Affairs and Public Safety committee to review.

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				

Motion made by Trustee Knutson, Seconded by Trustee Bear, and unanimously carried to extend the meeting until 10:15 pm.

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				

Town Attorney Professional Services Agreement

- Discussion ensued regarding the Town Attorney Professional Services Agreement that was included in the packet.

Board & Staff discussion points:

- A fixed-price contract for 2021.
- August 3rd, 2020 is Town Attorney Nerlin's last day with the office of David Reed.

Motion made by Trustee Knutson, Seconded by Trustee Meck, and unanimously carried to approve Town Attorney Professional Services Agreement

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				

Consent Agenda

Consent Agenda

Regular Minutes:

July 14, 2020

Trustee Retreat:

July 8, 2020

Motion made by Trustee Bear, Seconded by Trustee Budinger, and unanimously carried to approve the consent agenda.

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				

Disbursements

Treasurer's Report:

Reviewed payroll and disbursements.

Disbursements:

Motion made by Trustee Knutson, Seconded by Trustee Budinger, and unanimously carried to approve 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				

Mayor's Report

Mayor's Report

Board retreat to be scheduled for October 2nd or 9th from 2:30-5:30 pm. Staff will be scheduled from 4-5:30 pm.

Committee Reports

Finance & Personnel

- Nothing to report.

Governmental Affairs & Public Safety

- GAPS meeting via Zoom at 2 pm
- Food truck Let's Talk! listening meeting at 4 pm in Town Hall Wednesday.

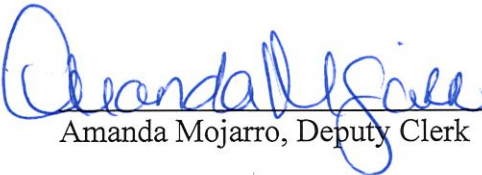
Public Works-Utilities-Facilities:

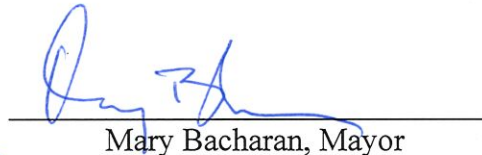
- Faulty manhole - Public Works Director Loberg stated that he is looking into prices to repair faulty manholes in Town.

Adjournment

25. Adjournment

Mayor Bachran adjourned the meeting at 10:15 pm


Amanda Mojarro, Deputy Clerk


Mary Bacharan, Mayor

