



TOWN OF PAONIA
MONDAY, FEBRUARY 28, 2022
SPECIAL TOWN BOARD MEETING AGENDA
5:00 PM

BE ADVISED:
MASKS REQUIRED FOR IN-PERSON ATTENDEES.

INFORMATION FOR VIRTUAL MEETING ATTENDANCE IS PROVIDED BELOW. THERE WILL BE NO LIVESTREAM AVAILABLE BUT THE MEETING WILL BE UPLOADED TO YOUTUBE FOLLOWING THE MEETING. CORINNE FERGUSON IS INVITING YOU TO A SCHEDULED ZOOM MEETING.

TOPIC: BOARD OF TRUSTEES SPECIAL MEETING - PROPOSED ORDINANCE
TIME: FEB 28, 2022 05:00 PM MOUNTAIN TIME (US AND CANADA)

JOIN MEETING
[HTTPS://US02WEB.ZOOM.US/J/87552676322](https://us02web.zoom.us/j/87552676322)

MEETING ID: 875 5267 6322
ONE TAP MOBILE
+13462487799,,87552676322#
DIAL BY YOUR LOCATION
+1 346 248 7799 US
MEETING ID: 875 5267 6322

Roll Call

- [1.](#) Roll Call

Approval of Agenda

- [2.](#) Agenda Approval

Announcements

- [3.](#) Announcements

New Business

- [4.](#) Board review and possible action regarding Ordinance TBD-2022 amending the Town of Paonia Municipal Code to add a new section 2-11-10 concerning infrastructure and finance public records

Adjournment

- [5.](#) Adjournment

I. RULES OF PROCEDURE

Section 1. Schedule of Meetings. Regular Board of Trustees meetings shall be held on the second and fourth Tuesdays of each month, except on legal holidays, or as re-scheduled or amended and posted on the agenda prior to the scheduled meeting.

Section 2. Officiating Officer. The meetings of the Board of Trustees shall be conducted by the Mayor or, in the Mayor's absence, the Mayor Pro-Tem. The Town Clerk or a designee of the Board shall record the minutes of the meetings.

Section 3. Time of Meetings. Regular meetings of the Board of Trustees shall begin at 6:30 p.m. or as scheduled and posted on the agenda. Board Members shall be called to order by the Mayor. The meetings shall open with the presiding officer leading the Board in the Pledge of Allegiance. The Town Clerk shall then proceed to call the roll, note the absences and announce whether a quorum is present. Regular Meetings are scheduled for three hours, and shall be adjourned at 9:30 p.m., unless a majority of the Board votes in the affirmative to extend the meeting, by a specific amount of time.

Section 4. Schedule of Business. If a quorum is present, the Board of Trustees shall proceed with the business before it, which shall be conducted in the following manner. Note that all provided times are estimated:

- (a) Roll Call - (5 minutes)
- (b) Approval of Agenda - (5 minutes)
- (c) Announcements (5 minutes)
- (d) Recognition of Visitors and Guests (10 minutes)
- (e) Consent Agenda including Approval of Prior Meeting Minutes (10 minutes)
- (f) Mayor's Report (10 minutes)
- (g) Staff Reports: (15 minutes)
 - (1) Town Administrator's Report
 - (2) Public Works Reports
 - (3) Police Report
 - (4) Treasurer Report
- (h) Unfinished Business (45 minutes)
- (i) New Business (45 minutes)
- (j) Disbursements (15 minutes)
- (k) Committee Reports (15 minutes)
- (l) Adjournment

* This schedule of business is subject to change and amendment.

Section 5. Priority and Order of Business. Questions relative to the priority of business and order shall be decided by the Mayor without debate, subject in all cases to an appeal to the Board of Trustees.

Section 6. Conduct of Board Members. Town Board Members shall treat other Board Members and the public in a civil and polite manner and shall comply with the Standards of Conduct for Elected Officials of the Town. Board Members shall address Town Staff and the Mayor by his/her title, other Board Members by the title of Trustee or the appropriate honorific (i.e.: Mr., Mrs. or Ms.), and members of the public by the appropriate honorific. Subject to the Mayor's discretion, Board Members shall be limited to speaking two times when debating an item on the agenda. Making a motion, asking a question or making a suggestion are not counted as speaking in a debate.

Section 7. Presentations to the Board. Items on the agenda presented by individuals, businesses or other organizations shall be given up to 5 minutes to make a presentation. On certain issues, presenters may be given more time, as determined by the Mayor and Town Staff. After the presentation, Trustees shall be given the opportunity to ask questions.

Section 8. Public Comment. After discussion of an agenda item by the Board of Trustees has concluded, the Mayor shall open the floor for comment from members of the public, who shall be allowed the opportunity to comment or ask questions on the agenda item. Each member of the public wishing to address the Town Board shall be recognized by the presiding officer before speaking. Members of the public shall speak from the podium, stating their name, the address of their residence and any group they are representing prior to making comment or asking a question. Comments shall be directed to the Mayor or presiding officer, not to an individual Trustee or Town employee. Comments or questions should be confined to the agenda item or issue(s) under discussion. The speaker should offer factual information and refrain from obscene language and personal attacks.

Section 9. Unacceptable Behavior. Disruptive behavior shall result in expulsion from the meeting.

Section 10. Posting of Rules of Procedure for Paonia Board of Trustees Meetings. These rules of procedure shall be provided in the Town Hall meeting room for each Board of Trustees meeting so that all attendees know how the meeting will be conducted.

II. CONSENT AGENDA

Section 1. Use of Consent Agenda. The Mayor, working with Town Staff, shall place items on the Consent Agenda. By using a Consent Agenda, the Board has consented to the consideration of certain items as a group under one motion. Should a Consent Agenda be used at a meeting, an appropriate amount of discussion time will be allowed to review any item upon request.

Section 2. General Guidelines. Items for consent are those which usually do not require discussion or explanation prior to action by the Board, are non-controversial and/or similar in content, or are those items which have already been discussed or explained and do not require further discussion or explanation. Such agenda items may include ministerial tasks such as, but not limited to, approval of previous meeting minutes, approval of staff reports, addressing routine correspondence, approval of liquor licenses renewals and approval or extension of other Town licenses. Minor changes in the minutes such as non-material Scribner errors may be made without removing the minutes from the Consent Agenda. Should any Trustee feel there is a material error in the minutes, they should request the minutes be removed from the Consent Agenda for Board discussion.

Section 3. Removal of Item from Consent Agenda. One or more items may be removed from the Consent Agenda by a timely request of any Trustee. A request is timely if made prior to the vote on the Consent Agenda. The request does not require a second or a vote by the Board. An item removed from the Consent Agenda will then be discussed and acted on separately either immediately following the consideration of the Consent Agenda or placed later on the agenda, at the discretion of the Board.

III. EXECUTIVE SESSION

Section 1. An executive session may only be called at a regular or special Board meeting where official action may be taken by the Board, not at a work session of the Board. To convene an executive session, the Board shall announce to the public in the open meeting the topic to be discussed in the executive session, including specific citation to the statute authorizing the Board to meet in an executive session and identifying the particular matter to be discussed "in as much detail as possible without compromising the purpose for which the executive session is authorized." In the event the Board plans to discuss more than one of the authorized topics in the executive session, each should be announced, cited and described. Following the announcement of the intent to convene an executive session, a motion must then be made and seconded. In order to go into executive session, there must be the affirmative vote of two thirds (2/3) of Members of the Board.

Section 2. During executive session, minutes or notes of the deliberations should not be taken. Since meeting minutes are subject to inspection under the Colorado Open Records Act, the keeping of minutes would defeat the private nature of executive session. In addition, the deliberations carried out during executive session should not be discussed outside of that session or with individuals not participating in the session. The contents of an executive session are to remain confidential unless a majority of the Trustees vote to disclose the contents of the executive session.

Section 3. Once the deliberations have taken place in executive session, the Board should reconvene in regular session to take any formal action decided upon during the executive session. If you have questions regarding the wording of the motion or whether any other information should be disclosed on the record, it is essential for you to consult with the Town Attorney on these matters.

IV. SUBJECT TO AMENDMENT

Section 1. Deviations. The Board may deviate from the procedures set forth in this Resolution, if, in its sole discretion, such deviation is necessary under the circumstances.

Section 2. Amendment. The Board may amend these Rules of Procedures Policy from time to time.

AGENDA SUMMARY FORM

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|  | Roll Call |
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Summary:

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

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|-----------------|---------------|------------------|------------------|
| Vote: | Mayor Bachran | Trustee Budinger | Trustee Johnson |
| Trustee Knutson | Vacant | Trustee Smith | Trustee Thompson |

AGENDA SUMMARY FORM

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|  | <p>Agenda Approval</p> |
|---|------------------------|

Summary:

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

| | | | |
|-----------------|---------------|------------------|------------------|
| Vote: | Mayor Bachran | Trustee Budinger | Trustee Johnson |
| Trustee Knutson | Vacant | Trustee Smith | Trustee Thompson |

AGENDA SUMMARY FORM

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|---|---------------|
|  | Announcements |
|---|---------------|

Summary:

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

| | | | |
|-----------------|---------------|------------------|------------------|
| Vote: | Mayor Bachran | Trustee Budinger | Trustee Johnson |
| Trustee Knutson | Vacant | Trustee Smith | Trustee Thompson |

AGENDA SUMMARY FORM

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|  | <p>Board review and possible action regarding Ordinance TBD-2022 amending the Town of Paonia Municipal Code to add a new section 2-11-10 concerning infrastructure and finance public records</p> |
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Summary:
Proposed alternative to initiative petition.

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

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|-----------------|---------------|------------------|------------------|
| Vote: | Mayor Bachran | Trustee Budinger | Trustee Johnson |
| Trustee Knutson | Vacant | Trustee Smith | Trustee Thompson |

ORDINANCE NO. TBD-2022

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA, COLORADO, AMENDING THE TOWN OF PAONIA MUNICIPAL CODE TO ADD A NEW SECTION 2-11-10 CONCERNING INFRASTRUCTURE AND FINANCE PUBLIC RECORDS

RECITALS:

WHEREAS, the Town of Paonia (the “Town”), in the County of Delta and State of Colorado, is a municipal corporation duly organized and existing under the laws of the State of Colorado; and

WHEREAS, pursuant to Article 2, Sec. 2-2-10(b) of the of the Town of Paonia Municipal Code (the “Town Code”), the Town Board of Trustees is the legislative body for the Town and has the power and authority to adopt such laws, ordinances, and resolutions as it shall deem proper in the exercise thereof; and

WHEREAS, in response to a proposed Initiative Petition related to Town records and the transparency issues underlying such Initiative, the Board of Trustees wishes to amend the Municipal Code to provide greater access to certain records concerning Town infrastructure and finances; and

WHEREAS, the Board of Trustees finds and determines it is in the best interest of the Town amend the Town Code as provided herein.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PAONIA, COLORADO, AS FOLLOWS:

Section 1. Legislative Findings.

The recitals to this Ordinance are adopted as findings of the Board of Trustees in support of the enactment of this Ordinance.

Section 2. Amendment of Town Code.

Chapter 2 of the Town Code is hereby amended with the addition of a new Article 11 – Records, as follows:

ARTICLE 11. – RECORDS AND FACILITIES.

Sec. 2-11-10. – Infrastructure and Finance Records; Trustee Access.

(a) Pursuant to the Colorado Open Records Act, C.R.S. §§ 24-72-200.1 *et seq.* (CORA), the Town of Paonia acknowledges all reports, studies, data, statistics, engineering calculations and all other information relating to Town infrastructure and financial records

constituting public records shall be open for inspection and production upon request made pursuant to CORA and shall not be withheld pursuant C.R.S. § 24-72-204(2)(a), subject to the following:

(1) Only those portions of records containing information required to be withheld or denied for public inspection by CORA or another law may be withheld.

(2) The custodian of the records shall provide a statement detailing the specific statute requiring withholding or denial of the record and stating the nature of such records and information, such as name, banking information, personal phone number, or other subject., specific to each individual redaction or record withheld or denied for inspection.

(b) To the extent allowed by law, the Board of Trustees shall not be denied access to: (1) inspect all public records of the Town; and (2) view all facilities of the Town in accordance with any applicable Town procedure and upon coordination through the Town Administrator or the Town Administrator's designee. Inspection of Town facilities shall not be unduly delayed.

Section 3. Severability.

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance, which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

Section 4. Ordinance Effect.

Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed, and any and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed, provided, however, that the repeal of any ordinance or parts of ordinances of the Town shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded, and further provided that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 5. Effective Date.

This Ordinance shall take effect thirty days from the date of publication.

HEARD AND FINALLY ADOPTED by the Board of Trustees of the Town of Paonia, Colorado, this 28th day of February, 2022 by a vote of __ to __.

**TOWN OF PAONIA, COLORADO,
A MUNICIPAL CORPORATION**

By: _____
Mary Bachran, Mayor

ATTEST:

Corinne Ferguson, Town Clerk

WARNING:**IT IS AGAINST THE LAW:**

For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.

Do not sign this petition unless you have read or have had read to you the proposed initiative or referred measure or the summary in its entirety and understand its meaning.

Summary of Proposed Ordinance

An ordinance of the Town of Paonia amending Chapter 2 of the Paonia Municipal Code by the addition of a new Section 2, Article 11 making records of Town Infrastructure and Finance available without charge to residents of Paonia, preventing the Town from bringing suit against a record requester, making all records of the Town broadly available to Trustees, establishing the right to challenge Town actions and ordinances in Municipal Court at minimal expense to the applicant, limited waiving of Governmental Immunity for claims under this ordinance, awarding cost, damages and fees to a prevailing citizen and doubling those in certain cases.

The two persons who represent the proponents of this initiative petition in all matters affecting the petition and to whom all notices or information concerning the petition shall be mailed are:

Bill Brunner, P.O. Box 172 Paonia, CO 81428
Jeannette Brunner, P.O. Box 172 Paonia, CO 81428

Text of Proposed Ordinance**Section 1. Amendment of Town Code.**

Chapter 2 of the Town Code is amended by the addition of the following:

Sec. 2-11 Public Access to Town Records and the Municipal Court to Increase Local Government Accountability.**Sec. 2-11- (a) Definitions:**

Open Records: Records available to the public by the Colorado Open Records Act (CORA), under which the Town may charge per page and for research and deny certain requests.

Public Records: Records available to the public under this ordinance.

Sec. 2-11-(b) Records of Infrastructure and Finance are based on Data and are Public Records.

(i) In addition to the requirements of the Colorado Open Records Act, C.R.S. 24-72-200.1 et seq. (CORA) all records, reports, studies, data, statistics, calculations and all other records and information relating to Town owned infrastructure as well as all financial records, regardless of status or designation including but not limited to draft, work product, claim of privilege, etc. are Public Records available upon request unless those records meet the requirements of section (ii).

(ii) Only those portions of records containing information required to be withheld by an applicable law may be withheld and only by redaction of the required portion of the record so that the public shall know of the extent of the records withheld.

(iii) The Custodian of the records shall provide a sworn statement detailing the specific statute requiring the redaction as well as stating the nature, such as name, banking information, personal phone number, etc., specific to each individual redaction.

(iv) If the Town is unable to definitively ascertain if any requested record is required to be withheld by an applicable law, the Town shall immediately make those records public. In no case shall the Town make any claim or counter claim or under take any action against any person resulting from a valid records request.

(v) The time periods and procedures described in CORA, as amended by this ordinance, shall apply to Public Records requested under this Ordinance and to request for Town records made under CORA, without appeal by the Town.

(vi) Records requested under this Ordinance by residents of Paonia shall be provided without cost to the resident.

Sec. 2-11-(c) Trustees have Broad Access to all Records

(i) Trustees shall have broad access to examine all the records of the Town.

Sec. 2-11-(d) Actions of the Town, Town Officials and Town Ordinances may be Challenged in Municipal Court at Minimal Expense.

(i) Actions and decisions by the Town, Town Officials and the lawfulness of Town Ordinances may be challenged in the Municipal Court.

(ii) The Court shall establish rules and procedures that allow Town residents and persons owning property in the Town to challenge the decisions and actions of the Town and its Officials and the lawfulness of Town Ordinances at minimal expense to the applicant not to exceed \$50.

(iii) The Court shall establish rules and procedures so that persons with no judicial experience may have a fair trial, including the right to trial by jury, when challenging actions or decisions of the Town, Town officials or the lawfulness of Town Ordinances, with or without representation by an attorney.

(iv) The Rules of Procedure shall include but not be limited to;

a) Deadlines for filings with the Court: the Town's deadlines shall fall so that a citizen facing the Town in Court has five days to examine the Town's position prior to filing a corresponding document.

b) At least 5 days prior to trial The Town shall provide all evidence known by the Town that is relevant to any person facing the Town in Court including all evidence that may be mitigating or contrary to the Town's position.

Sec. 2-11- (e) Limited Waiver of Governmental Immunity.

(i) The Town waives Governmental Immunity to a liability limit of \$50,000 for claims brought under this ordinance .

Sec. 2-11- (f) Damages and Fees.

(i) The Court shall award reasonable costs, damages and attorney fees to any member of the public prevailing in any suit or court action brought under this ordinance.

Sec. 2-11- (g) Double Damages and Fees.

(i) If The Town or Town Officials are found to have acted with malice, negligence, beyond the legal scope of office or in a willful and wanton manner, the Court shall award double reasonable costs, damages and attorney fees to any member of the public prevailing in any suit or court action brought under this ordinance or the Colorado Open Records Act or the Colorado Open Meetings Law without limitation by section (f) above.

Section 2. Repeal of Conflicting Ordinances

Any other ordinance or portion of any ordinance in conflict with this ordinance is hereby repealed.

Section 3. Severability.

If any provision of this ordinance or the application of it to any person or circumstance is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or applications. The provisions of this ordinance are expressly declared to be severable.

AGENDA SUMMARY FORM

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|  | Adjournment |
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Summary:

Notes:

Possible Motions:

Motion by: _____ 2nd: _____ vote: _____

| | | | |
|-----------------|---------------|------------------|------------------|
| Vote: | Mayor Bachran | Trustee Budinger | Trustee Johnson |
| Trustee Knutson | Vacant | Trustee Smith | Trustee Thompson |