

Minutes
Town Board Regular Meeting
Town of Paonia, Colorado
March 28, 2017

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Board of Trustees held Tuesday, March 28, 2017 was called to order at 7:10 PM by Mayor Charles Stewart, followed by the Pledge of Allegiance.

Trustees present were as follows:

Mayor Charles Stewart
Trustee Chelsea Bookout
Trustee David Bradford
Trustee Bill Brunner
Trustee Karen Budinger
Trustee Suzanne Watson

Trustee Bill Bear was absent.

Town Staff present were as follows:

Town Administrator Ken Knight
Town Clerk Corinne Ferguson
Finance Officer Cindy Jones
Sergeant Neil Ferguson
Public Works Director Travis Loberg
Treasurer Ross King

A quorum was present and Mayor Stewart proceeded with the meeting.

Approval of Agenda

Motion by Trustee Bradford, supported by Trustee Bookout to approve the agenda with a correction to the numbering of item ten (10). Motion carried with five (5) ayes and zero (0) nays.

Announcements

The Town Planning Commission and Zoning Board have open seats for community volunteers.

Visitors

Sergeant Ferguson introduced the new police department hire, Stewart Byrge. Officer Byrge is currently participating in the police department FTO (Field Training Operations) program.

Alex Johnson – Executive Director of the Western Slope Conservation Center (WSSC), informed the Board of an upcoming event with the Paonia High School and C.U. Boulder. C.U. Boulder participated in an air quality study with Paonia High School students. The event to present findings will be Wednesday, April 5, 2017 at 8PM.

Unfinished Business

In-Town Waterline Project Contract Award

Motion by Trustee Bradford, supported by Trustee Bookout to limit discussion to two (2) opportunities for each trustee. Motion carried by roll call vote:

Trustee Chelsea Bookout - Aye
Trustee David Bradford - Aye
Trustee Bill Brunner - Nay
Trustee Karen Budinger - Aye

Trustee Suzanne Watson – Nay

Mayor Stewart provided a brief history of the previous Board meeting discussion regarding this item. SGM and Public Works Director Loberg recommend awarding all phases to TSM Construction, LLC.

Brandyn Bair, an Engineer with SGM was present to answer questions from the Board. Mr. Bair stated he expects minimal change orders regarding this project and does not foresee any need for tree removal or major damage to tree roots at this stage.

Motion by Trustee Bradford, supported by Trustee Budinger to award the In-Town Waterline project segment 1, to TSM Construction in the amount of \$300,670.89; segment 2, to TSM Construction in the amount of \$181,397.51; & segment 3 to TSM Construction in the amount of \$262,085.26, with a 10% contingency. Motion carried with five (5) ayes and zero (0) nays.

DMEA – Telecommunications Memorandum of Understanding (MOU)

A revised agreement prepared by the Town attorney was provided in the packet.

Mark Kurtz was present on behalf of DMEA. Mayor Stewart provided a brief history of the previous Board meeting discussion regarding this item. The summary of the MOU is the Town agrees not to operate as a retail internet service provider (isp), and should the Town allow the sale of bandwidth, it will only be sold at carrier neutral locations.

Motion by Trustee Budinger, supported by Trustee Bookout to approve the Memorandum of Understanding between the Town of Paonia and DMEA, authorizing Mayor Stewart to sign on behalf of the Town. Motion carried with five (5) ayes and zero (0) nays.

Municode 2-5-30 – Chief of Police; Appointments & Duties

Mayor Stewart read Municipal Code 2-5-30 regarding the appointment of a Chief of Police. Town Administrator Knight recommended the appointment of Sergeant Neil Ferguson to the position of Chief of Police, Paonia Police Department.

Motion by Trustee Bradford, supported by Trustee Bookout to enter executive session to discuss a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; specific to the promotion of Sergeant Ferguson. Motion carried with five (5) ayes and zero (0) nays.

The Town Board entered Executive Session at 7:34PM.

The Board returned to open session at 7:55PM.

In attendance were Mayor Charles Stewart, Administrator Ken Knight, Trustees David Bradford, Suzanne Watson, Karen Budinger, Bill Brunner, Chelsea Bookout, and Sergeant Neil Ferguson.

No issues were noted.

Trustees Brunner and Watson noted concern with the appointment of a police chief by the Board following the adoption of Ordinance 2016-02, removing the chief position from an appointed position.

Discussion ensued regarding statutory appointment requirements and whether the Board could appoint a chief per the recommendation of the administrator without making the position a direct report to the Board.

Motion by Trustee Brunner, supported by Trustee Watson to amend the main motion stating the Board recommends the Town Administrator hire Sergeant Ferguson as the chief of police. Motion failed with two (2) ayes and three (3) nays from Trustees Bookout, Bradford, and Budinger.

At the request of Trustee Bradford, Sergeant Ferguson shared his vision and the recent accomplishments of the police department as:

- The police department vision is to be community involved and oriented
- Implementing required training programs
- Applying for and receiving multiple grants for police equipment and ammunition including \$3,000 reimbursement for training and full reimbursement for ammunition.
- Compliant with FBI required reporting

The difficulties faced by being a Sergeant in charge include receiving and requesting information from outside entities, accessibility to programs that are only for police chiefs.

Finance Officer and Court Clerk Cindy Jones added that since Sergeant Ferguson took over the supervision of the police department there have been near 100% closure of all cases.

Trustee Bookout expressed her appreciation to Sergeant Ferguson for his patience and willingness to rise to the occasion and run a police force under difficult circumstances. She also acknowledged his presence in the Town and positive feedback from community members.

Trustee Brunner requested the Board allow him to abstain from voting because he did not want to vote against Sergeant Ferguson, but does not believe the appointment is correct under the Town Municode.

Trustee Watson added she cannot support an appointment that is not listed in the Municode.

Discussion ensued regarding Roberts Rules of Order.

Motion by Trustee Bradford, supported by Trustee Bookout to approve the Town Administrator's recommendation that Neil Ferguson be appointed the Chief of Police for the Town of Paonia. Motion carried with three (3) ayes and two (2) nays from Trustees Brunner and Watson.

Ordinance 2017-02 Off-Highway Vehicles Within the Town of Paonia

Mayor Stewart provided a brief history of the off-highway vehicle (OHV) ordinance discussion from the previous meeting and stated the proposed ordinance effectively adopts the model of other community ordinances and includes the requested changes from the previous meeting.

Motion by Trustee Brunner to set ordinance for a public hearing. Motion failed for lack of second.

Two (2) community members spoke against the ordinance, stating they have concerns for the potential for increased use on trail systems, traffic issues, and noise.

One (1) community member spoke in favor of the ordinance, adding that OHV's are equipped with lights, hand signals should be used, and regular use on paved roads is unlikely due to the wear on the machines and difficulty to control on pavement.

Discussion ensued regarding the reasons for the proposed ordinance, which included hunter access, local enforcement ability, the illegality of the ohv snow plow community assistance, and the change to the Colorado state regulations regarding OHV use on roads.

Motion by Trustee Bradford, supported by Trustee Bookout, to approve Ordinance 2017-02, amending and adding to the Municipal Code concerning the operation of off-highway vehicles within the Town of Paonia. Motion carried with four (4) ayes and one (1) nay from Trustee Brunner.

New Business

Western Slope Conservation Center (WSCC) Park Event Application

Alex Johnson, Executive Director of the WSCC, was present, requesting approval to use the Paonia River Park to host the 17th annual float and fest. The application and supporting documentation was included in the packet.

Motion by Trustee Brunner, supported by Trustee Bookout to approve the Western Slope Conservation Center Large Park Events application for the Paonia River Park on June 3, 2017. Motion carried with five (5) ayes and zero (0) nays.

Chamber of Commerce – Special Event Permit

Betsy Marston was present on behalf of the Paonia Chamber of Commerce, requesting approval of a special events permit application for 240 Grand Avenue on May 5, 2017.

Trustee Bradford gave a definition of Cinco de Mayo.

Motion by Trustee Brunner, supported by Trustee Bookout to approve the Paonia Chamber of Commerce Special Events Permit Application for May 5, 2017 at 240 Grand Avenue. Motion carried with five (5) ayes and zero (0) nays.

Paradise Theatre – Report of Corporate Changes

Pete Kolbenschlaag was present as new President of the Friends of the Paradise Board. The Paradise Theatre Board requests approval of the change, removing Tom Stevens from the liquor license.

Motion by Trustee Brunner, supported by Trustee Budinger to approve the Report of Changes for The Paradise Theatre. Motion carried with five (5) ayes and zero (0) nays.

Water Tap Purchase Application – Lamborn Drive Domestic & Irrigation Water Association

Administrator Knight stated per the current ordinance The Town can sell up to five (5) water taps to a water company per year. Currently the Town has not sold any taps for 2017. The tap purchase application and supporting documents were included in the packet.

The pre-annexation agreement has been requested.

Motion by Trustee Bradford, supported by Trustee Bookout to approve the sale of one (1) out-of-Town water tap to the Lamborn Drive Domestic and Irrigation Water Association to service Roberta Selk, contingent upon the receipt of the executed pre-annexation agreement and fees paid. Motion carried with five (5) ayes and zero (0) nays.

Ordinance 2017-05 Municode Amendment – Building Permit Fees

The ordinance states that the basic building permit fee is set by resolution and that a permit is required for all remodeling except for work which is exempt from a permit as provided in the 2003 IRC, and/or as otherwise provided by the Paonia Municipal Code as amended. The basic permit fee was approved previously in Resolution 2015-03 at \$35.00.

Discussion ensued regarding what classified as a minor remodel.

Motion by Trustee Brunner to set a 1,500.00 limit for permit exemption. Trustee Brunner withdrew motion.

Motion by Trustee Watson, supported by Trustee Brunner to include the adopted 2003 International Building Code (IBC) and the 2003 International Existing Building Code (IEBC). Motion failed with two (2) ayes and three (3) nays from Trustees Bookout, Bradford, and Budinger.

Motion by Trustee Bradford, supported by Trustee Budinger to adopt Ordinance 2017-05, an

Ordinance of the Town of Paonia, amending portions of the Paonia Municipal Code concerning building permit fees. Motion carried with five (5) ayes and zero (0) nays.

Public Safety – Speed Limit Review/Change

Chief Ferguson provided a brief explanation of the ongoing discussion with the public safety committee regarding the speed limits within the Town of Paonia. The police department recommends setting a standard speed limit of 25 miles per hour throughout Town, unless otherwise posted. Currently there are approximately 100 speed limit signs throughout Town, regulating four (4) different speeds. The potential benefits to a uniform speed include cost savings in the need for less signs and clearer speed requirements for the community.

Discussion ensued regarding the uniform speed recommendation locations.

Motion by Trustee Bradford, supported by Trustee Budinger to approve setting the Town of Paonia speed limit to 25 mph throughout Town, excluding school zones and any other area deemed necessary for safety, effective July 1, 2017.

Motion by Trustee Watson, to amend the main motion to keep the speed limit at 20mph throughout C-1 and C-2. Trustee Watson withdrew the motion.

Original Motion by Trustee Bradford, supported by Trustee Budinger to approve setting the Town of Paonia speed limit to 25 mph throughout Town, excluding school zones and any other area deemed necessary for safety, effective July 1, 2017. Motion carried with five (5) ayes and zero (0) nays.

Motion by Trustee Brunner, supported by Trustee Bookout to recess. Motion carried with five (5) ayes and zero (0) nays.

Meeting recessed at 9:21PM
Meeting reconvened at 9:28PM

Resolution 2017-06 Standards of Conduct of Elected Officials

Mayor Stewart presented the fact to the Board that there is not a standard of conduct for elected officials. There needs to be a process to address violations of code and conduct. The proposed standards were drafted by Tami Tanoue, an attorney with CIRSA, who presented to the Board during a work session prior to the meeting. Some modifications were made to conform with the Town Municipal Code.

Trustee Brunner believes the item should be set for a work session to allow open discussion.

Discussion ensued regarding potential legal action, censuring of official's ability to express contention, the necessity of a Board code of conduct, and specific details of Ordinance 2017-06.

Trustee Watson questioned what recourse trustees have against mistreatment by Town employees.

Discussion ensued regarding the process and preparation of setting the agenda.

Motion by Trustee Bradford, supported by Trustee Bookout to approve Resolution 2017-06 establishing a Standard of Conduct for Elected Officials of the Town.

Motion by Trustee Bradford, supported by Trustee Bookout to amend Resolution 2017-06, removing "any appearance of" from section 1(h). Motion carried with five (5) ayes and zero (0) nays.

Motion by Trustee Brunner, supported by Trustee Watson to table discussion and set a work session. Motion carried with five (5) ayes and zero (0) nays.

A work session to discuss Standards of Conduct Resolution 2017-05 was set for Tuesday, April

11, 2017 at 6PM.

Trustee Access to Town Records – At the Request of Trustee Brunner

Motion by Trustee Bradford, supported by Trustee Bookout to table discussion until the next Board meeting. Motion carried with five (5) ayes and zero (0) nays.

Town Attorney Request for Qualifications

Town Attorney David Marek submitted a letter of resignation effective April 28, 2017, citing the desire to work part-time. A draft calendar timeline and request for qualifications were included in the packet.

Motion by Trustee Bradford, supported by Trustee Bookout to authorize staff to advertise for the position of the Town Attorney for the Town of Paonia as provided in the timeline, with corrections. Motion carried with five (5) ayes and zero (0) nays.

Ordinance 2017-06 – The Conveyance of Real Property located at 38784 Marsh Road, Paonia, CO 81428

The ordinance reflects the accepted contract agreement for the sale of the property listed.

Motion by Trustee Bookout, supported by Trustee Bradford to adopt Ordinance 2017-06, Conveying real property located at 38784 Marsh Road, Paonia, CO 81428 as presented. Motion carried with five (5) ayes and zero (0) nays.

Regular Business

Motion by Trustee Bookout, supported by Trustee Bradford to table remaining agenda items other than minutes and disbursements until the next regular Board meeting. Motion carried with five (5) ayes and zero (0) nays.

All reports tabled until next regular Board meeting.

Minutes

Motion by Trustee Bradford, supported by Trustee Bookout to approve the Regular Meeting Minutes for March 14, 2017 as presented. Motion carried with five (5) ayes and zero (0) nays.

Disbursements

Motion by Trustee Budinger, supported by Trustee Bradford to authorize the disbursements as reviewed by the Town Treasurer and Finance Committee for March 24, 2017, in the amounts of, \$117,460.39 for accounts payable, \$1,108.20 for payroll by check, \$6,994.53 for payroll taxes, and \$19,111.91 for payroll. Motion carried with five (5) ayes and zero (0) nays.

Adjournment

The meeting was adjourned by Mayor Charles Stewart at 10:31PM

_____/s/_____
J. Corinne Ferguson, Town Clerk

_____/s/_____
Charles Stewart, Mayor