

**Minutes**  
**Town Board Regular Meeting**  
**Town of Paonia, Colorado**  
**June 14, 2016**

**RECORD OF PROCEEDINGS**

The Regular Meeting of the Town Board of Trustees held Tuesday, June 14, 2016 was called to order at 7:00 PM by Mayor Charles Stewart, followed by the Pledge of Allegiance.

Trustees present were as follows:

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

Trustee Suzanne Watson was absent.

Town Staff present were as follows:

Town Manager Jane Berry  
Town Clerk Corinne Ferguson  
Finance Officer Cindy Jones  
Sergeant Neil Ferguson  
Public Works Director Travis Loberg

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 as presented. Motion carried with five (5) ayes and zero (0) nays.

**Announcements**

None

**Visitors**

Elaine Brett was present on behalf of the Friends of The Paradise Theatre. Ms. Brett presented a statement to the Board expressing the theatres' concerns with Town Ordinance Section 10-6-60, limiting alcohol sales when minors are present without parent or guardian supervision.

Mayor Stewart advised that the Town has taken no action to prohibit or revoke the Paradise Theatre Tavern Liquor License. The ordinance has not been enforced and no action will be initiated to enforce the ordinance without discussion and notification to current liquor license holders. Mayor Stewart added that he believes the intent of the original ordinance was to prohibit minor's entry in to taverns. The Board is aware of the ordinance and will take it under review for possible amendment(s).

Two (2) community members spoke in favor of the Paradise Theatre and the support the sale of alcohol provides for local wineries and breweries.

Trustee Brunner requested follow-up at the next regular board meeting.

Sandra York – 208 Minnesota Avenue – read a statement regarding a fence permit request and asking that the land survey requirement be waived. Ms. York will follow-up with the building official Dave Coleman next week.

## **Unfinished Business**

### **Consideration to Adopt amended Resolution 2016-04 Thliveris Addition Annexation Petition**

Mayor Stewart read Amended Ordinance 2016-04 for the record. The public hearing for the Thliveris Annexation request was initially scheduled for June 28, 2016. This will not meet the four (4) week publishing requirement. The amended Resolution 2016-04 states the hearing shall be set for July 26, 2016.

Motion by Trustee Brunner, Supported by Trustee Bear to adopt Amended Resolution 2016-04, setting the Thliveris Annexation Petition Public Hearing for July 26, 2016. Motion carried with five (5) ayes and zero (0) nays.

## **New Business**

### **Consideration to Approve 2016 Paonia Cherry Days Special Events Liquor License**

Bob Bushta and Sheree Fischer were present on behalf of the Cherry Days Forever Committee. The annual Cherry Days events are scheduled for July 3 and 4, 2016. The committee requests the Board approve a Special Events Liquor License Application for the Town Park beer garden area as defined by the information provided in the Board packets. No issues noted.

Motion by Trustee Brunner, Supported by Trustee Bradford to approve the Cherry Days Special Events Liquor License application. Motion carried with five (5) ayes and zero (0) nays.

### **Consideration to Approve 2016 Paonia Cherry Days Large Group Park/Event Application**

Bob Bushta and Sheree Fischer were present on behalf of the Cherry Days Forever Committee. The annual Cherry Days events are scheduled for July 3 and 4, 2016. The committee requests the Board approve the Large Group Park/Event Application for the Town Park as defined by the information provided in the Board packets. No issues noted.

Motion by Trustee Bookout, Supported by Trustee Bear to approve the Cherry Days Large Group Park/Event Application. Motion carried with five (5) ayes and zero (0) nays.

### **Consideration to Approve 2016 BMW Rally Large Group Park/Event Application**

Bob Bushta was present on behalf of the BMW Rally. The annual BMW Rally is scheduled for July 21-23, 2016. The committee requests the Board approve the Large Group Park/Event Application for the Town Park as defined by the information provided in the Board packets. No issues noted.

Motion by Trustee Bradford, Supported by Trustee Budinger to approve the BMW Rally Large Group Park/Event Application. Motion carried with five (5) ayes and zero (0) nays.

### **Consideration to Approve 2016 Paonia Cherry Days Special Events Liquor License for BMW Rally**

Bob Bushta was present on behalf of the Cherry Days Forever Committee. The Cherry Days Forever Committee, as sponsor for the BMW Rally liquor license, requests the Board approve a Special Events Liquor License Application for the Town Park beer garden area as defined by the information provided in the Board packets. No issues noted.

Motion by Trustee Bear, Supported by Trustee Bradford to approve the Cherry Days BMW Rally Special Events Liquor License application. Motion carried with five (5) ayes and zero (0) nays.

### **Consideration to Approve 2016 North Fork Valley Public Radio, Inc. KVNF Special Events Liquor License**

Jon Howard, Events Manager for KVNF, was present. KVNF requests the Board approve a

Special Events Liquor License Application for the annual Pickin` in the Park Thursday night concert series in August, as defined by the information provided in the Board packets. The concert dates are: August 4, 11, 18, and 25, 2016. No issues noted.

Motion by Trustee Bookout, Supported by Trustee Budinger to approve the KVNF Special Events Liquor License application. Motion carried with five (5) ayes and zero (0) nays.

#### Consideration to Approve 2016 Pickin` in the Park Large Group Park/Event Application

Rob Miller was present on behalf of Pickin` Productions. The annual Pickin` in the Park concert series is scheduled for August 4, 11, 18, and 25, 2016. Pickin` Productions requests the Board approve the Large Group Park/Event Application for the Town Park as defined by the information provided in the Board packets. To increase safety and compliance to all Town Ordinances people will continue to walk the crowd and announce from stage prohibited activities. Town Manager Berry noted that Mr. Miller and Sergeant Ferguson worked well for the 2015 season addressing potential issues.

Motion by Trustee Bookout, Supported by Trustee Bradford to approve the Pickin` in the Park Large Group Park/Event Application. Motion carried with five (5) ayes and zero (0) nays.

#### Consideration to Approve Thliveris Addition Pre-Annexation Agreement

Mayor Stewart provided an overview regarding the Thliveris annexation process and annexation hearing date for July 26, 2016. The pre-annexation agreement permits the sale of a water and sewer tap prior to the annexation finalization with a caveat that should the annexation not be finalized the taps would be forfeited.

Lauren Thliveris – 40467 Mathews Lane – stated the store has been a family dream for many years. The family is excited to be at this stage and appreciated the Board consideration of the request, which will give them ability to open their location and provide fruits from the family orchards, as well as other items this season.

Motion by Trustee Brunner to amend the pre-annexation agreement to include an express statement affirming the right of the Town to re-zone the property in the future. Motion failed for lack of a second.

Town Manager Berry read C.R.S. 31-12-115 defining zoning procedures following annexation. Discussion ensued regarding section seven (7) of the pre-annexation agreement, the zoning procedure which occurs simultaneously with the annexation, and the legality of zoning property prior to annexation. Town Attorney David Marek added that the CML recommendation to add the affirmation of the Town right to re-zone applies when annexing a property without any plan to address zoning. The Thliveris addition zoning will occur immediately following annexation.

Motion by Trustee Brunner, Supported by Trustee Bookout to require properties intending to annex comply with all Town building permits, building codes, and land regulations. Roll Call Vote: Ayes, Trustee Bookout and Trustee Brunner. Nays, Trustee Bear, Trustee Bradford, and Trustee Budinger. Motion failed with two (2) ayes and three (3) nays.

Motion by Trustee Brunner to require the Thliveris Addition be zoned commercial. Trustee Brunner withdrew motion.

Motion by Trustee Bradford, Supported by Trustee Bear to approve the Thliveris Addition Pre-Annexation Agreement.

Roll Call Vote: Ayes, Trustee Bear, Trustee Bradford, and Trustee Budinger. Nays, Trustee Bookout and Trustee Brunner. Motion carried with three (3) ayes and two (2) nays.

#### Consideration to Approve Amendment to Pre-Annexation Agreement Hawks Haven Property Owners

Mayor Stewart provided an explanation of the existing pre-annexation agreement between the Town and Hawks Haven. The original agreement was between the Town and Hawks Haven, LLC (HLLC). The HLLC no longer exists so all property owners within the Hawks Haven

Homeowners Association (HHHOA) must agree to any amendments to the pre-annexation agreement. Should the amended agreement be approved by the Board it will be submitted to the HHHOA as an offer. This is an attempt on part of the Town to amend the existing agreement so a property owner can sell his property while protecting the interest of the Town. Mayor Stewart suggested an expiration date be added to the agreement for acceptance from the HHHOA property owners.

Discussion ensued regarding meeting with all property owners to answer questions and the specific request from property owner Chip Meneley who is trying to sell his lot in Hawks Haven.

Mayor Stewart cautioned Board members to refrain from open discussion of prior executive sessions.

Motion by Trustee Brunner to go in to executive session to discuss the Hawks Haven subdivision amendment. Motion failed for lack of a second.

Chip Meneley – 202 Colorado Avenue – Mr. Meneley and wife Sarah Sharer request an extension to the timeline for a tap installation for his lot located in the Hawks Haven subdivision and that each property owner be able to accept the amended agreement instead of the owners as a whole.

Motion by Trustee Brunner to remove all property owner names from the proposed Hawks Haven subdivision amendment but Mr. Meneley. Motion failed for lack of a second.

Motion by Trustee Bear, Supported by Trustee Bradford to go into executive session for a conference with the City/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 Hawks Haven. Motion carried with five (5) ayes and zero (0) nays.

The Town Board entered into Executive Session at 9:19 PM.

The Town Board reconvened the Regular Meeting Session at 9:50 PM.

Participants in the Executive Session were Mayor Stewart, Trustee Bear, Trustee Bradford, Trustee Brunner, Trustee Budinger, and Trustee Bookout, Town Manager Berry, and Town Attorney David Marek. No concerns were noted.

Motion by Trustee Bradford, Supported by Trustee Budinger to approve the amended pre-annexation agreement with Hawks Haven property owners, adding to section 8 that the amendment is conditional upon acceptance of agreement by all owners on or before August 1, 2016. Motion carried with five (5) ayes and zero (0) nays.

### **Regular Business**

Mayor's Report: Mayor Charles Stewart reported:

1. Appointed Trustee Bear to the Planning Commission. One position remains open.

Town Manager Report: Town Manager Jane Berry reported:

1. A TIPS liquor training has been scheduled for July 12, 2016 at Town Hall at 9am. All current license holders and special event groups have been notified.
2. A Planning Commission meeting will be scheduled within the next few weeks.
3. Issues with the Fifth Street and Grand Avenue intersection are being worked through with Delta County Engineer Bob Kalenak.
4. Administrative intern Chase Park will be working for the Town for the summer months.
5. E-mail storage capacity has been increased.
6. Thanks to the North Fork Baptist Church who continue to care for the area around the Town Park Miners Statue.

Public Works Department Report: Public Works Director Travis Loberg reported:

1. The waterline installation on Third Street is almost complete.

2. Trying to locate an appropriate sized tree spade to relocate trees from old sewer pond.
3. Potholes are being filled.
4. The water treatment plants are both running well.
5. A proposal for sidewalk repairs should be in this week.

Police Department Report: Sergeant Neil Ferguson reported:

1. Increased code enforcement notices for weeds and brush have gone out.
2. Marijuana compliance checks have begun.
3. All POST grant reimbursement requests for ammunition and training were approved.

Treasurers Report: Town Treasurer Ross King reported:

1. Recommends an approval of moving Bond funds to COLO Trust.

### **Committee Reports**

1. Finance and Personnel: Motion by Trustee Bear, Supported by Trustee Budinger to approve the transfer of \$255,000 from operating account and \$170,000 from bond to COLO Trust. Motion carried with five (5) ayes and zero (0) nays.
2. Public Works: Nothing additional to report.
3. Governmental Affairs: Met with Town Manager Berry and are planning to address suggested ordinance changes as well as the addition of ATV and marijuana ordinances.
4. Services & Recreation: Believes there is a misunderstanding in the community regarding the ditch at Town Park. The ditch at Town Park is not planned to be covered with sidewalk repairs in the area.
5. Facilities & Development: Nothing to report.
6. Public Safety: Committee meeting planned for the near future.

### **Minutes**

Motion by Trustee Bear, Supported by Trustee Bradford to approve the Town Board Regular Meeting Minutes as amended for May 24, 2016. Motion carried with five (5) ayes and zero (0) nays.

Motion by Trustee Brunner, Supported by Trustee Bookout to approve the Town Board Special Meeting Minutes as submitted for June 2, 3, and 9, 2016. Motion carried with five (5) ayes and zero (0) nays.

### **Disbursements**

Motion by Trustee Bear, Supported by Trustee Budinger to authorize the disbursements as reviewed by the Finance Committee with the Town's Finance Officer. Motion carried with five (5) ayes and zero (0) nays.

### **Adjournment**

The meeting was adjourned by Mayor Charles Stewart at 10:27 PM

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Corinne Ferguson, Town Clerk

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Charles Stewart, Mayor