

**Town Council Regular Meeting**  
**Town of Paonia, Colorado**  
**March 25, 2014**

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Council held Tuesday, March 25, 2014 was called to order at 7:05 p.m. with the Pledge of Allegiance. Those present were Mayor Neal Schwieterman, Trustees Brian Ayers, Eric Goold, Ross King, Amber Kleinman and Sarah Sauter; Attorney David Marek; Chief Scott Leon; Public Works Director Travis Loberg; Finance Officer Cindy Jones; and Deputy Clerk Corinne Ferguson. Town Clerk Barbara Peterson was in the audience.

Mayor Schwieterman determined a quorum was present and proceeded with the meeting.

**Approval of Agenda**

Trustee Ayers made a point of order questioning whether the Paonia Public Library and the Town Manager – Offer of Employment should be unfinished or new business on the agenda. Mayor Schwieterman explained that the library and the Town Manager position had been on previous agendas, making the items unfinished business. Trustee King moved to approve the agenda. Trustee Goold seconded and the motion passed unanimously.

**Paonia High School Update**

Tristan Littlejohn reported that senior student Will Austin received the Boettcher Scholarship, a prestigious merit-based scholarship that pays for four years to any university in the state. Both Will Austin and Skylar Simpson received the Daniels Fund scholarship. A track meet is scheduled for Saturday in Cedaredge, the tennis team will play Hotchkiss in Hotchkiss, and the baseball team is in Nucla for a game. Two students have made it to state competitions for speech and the science fair. The knowledge bowl team took second place, and because of district budget cuts, both a Science and English teacher position have been cut from next year.

**Announcements**

None

**Visitors**

Linda Long asked if the Hawks Haven Road Agreement had been rescheduled. Mayor Schwieterman explained that a potential plat change triggered a referral from the Town Attorney that the agreement be reviewed by the Planning and Zoning Commission (P&Z) for a recommendation to the Board. The next P&Z meeting has been tentatively scheduled for April 15, 2014, and could potentially be on the agenda for the following Board meeting scheduled for April 22, 2014. Ms. Long asked if it would be better to address P&Z or should she continue with the Board. Mayor Schwieterman stated that it would be better addressed at the P&Z meeting first. Mayor Schwieterman acknowledged Trustee Goold's previous question during a meeting about why the agreement would not go to P&Z first, and thanked Trustee Goold for recognizing the necessity then.

**Unfinished Business**

**Paonia Public Library - Update**

Kit Stephenson, from the Paonia Public Library presented information regarding the statistics from 2013 and upcoming events in 2014. The patron count for 2013 was seventy-one thousand, one hundred forty-nine (71,149), and sixty-six thousand, five hundred ninety-five items were checked out. The lost ballot measure to increase the mill levy in the November 2013 election caused the library to cut spending. The library is now closed on Mondays, but the staff is striving to keep the same programs and services available. The library now offers a service called "The Neighborhood Factory" where patrons have free access to scanners, graphics programs, audio and video recording, and editing. Monie Slater, the teen librarian intern, hosts French Fridays which includes a French language learning database. The North Fork seed library offers different vegetable, herbs, flowers and more. While the seeds are housed at the Hotchkiss library, patrons can "check out" seeds and they will be delivered to the Paonia library location. Outdoor concerts will resume during June and July; the library is hoping to offer a farmers market and other food at the concerts. The children's summer reading program will continue this year. Mayor Schwieterman noted that he had heard of another program which is a

testament to the many different resources available at the local public library.

### Town Manager – Offer of Employment

(Clerk note: Due to the contentious nature of this issue, this section of the minutes lean more toward verbatim, rather than synopsis. – J Corinne Ferguson)

Mayor Schwieterman announced new information regarding one (1) of the three (3) final applicants had come to light, minutes prior to the start of the meeting. Mayor Schwieterman suggested the best forum to receive the new information would be in an executive session, allowing time for the board to decide on how they wish to proceed. Trustee Sauter moved to go into executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) and for discussion of 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. Trustee Kleinman seconded. Discussion ensued between Trustees King and Ayers, Mayor Schwieterman, and Human Resources consultant Dave Knutson regarding the need for the information to be conveyed in executive session, how to address the public should it be necessary to divulge the information received in executive session, and to what the new information pertained. Mr. Knutson stated the availability of one candidate had changed and it should only take a moment to discuss. Mayor Schwieterman called for the vote and subsequently calling a poll of the vote for accurate recording. The motion failed for lack of a two-thirds majority with Trustees Goold and King voting “Nay”.

Trustee King moved to offer Gwen Hallsmith of Montpelier, Vermont the position of Town Manager contingent upon successful completion of background check and contract negotiation. Trustee King stated that his reasoning was that the Town of Paonia needed new leadership that has the experience to develop the community and is the best qualified candidate. Trustee Goold moved to offer Barbara Peterson the position of Town Manager stating that Ms. Peterson is the best candidate because of the level of experience she has, her passion for the community as well as her job, the job she has been doing on behalf of the Town which include Town Manager duties, her knowledge of the community and the people in it, the twenty-five (25) letters received on her behalf and discussion during work and executive sessions. Trustee Goold believes Ms. Peterson’s abilities to effectively manage the Town will come with time and that promoting Ms. Peterson to Town Manager saves the Town money, is less on existing staff unlike an outsider coming in could potentially be, and is the right call for the Town. Trustee King called a point of order, requesting a second for his previously stated motion prior to Trustee Goold making a new motion. Mayor Schwieterman concurred that Trustee King was correct on procedure and asked if there was a second to Trustee King’s motion. Trustee Sauter stated that she was uncomfortable moving forward if the information about availability had to do with either candidate mentioned. Trustee King asked if there was a second to his motion before discussion ensued; seeing none, the Mayor allowed discussion to begin. In an effort to keep in contact with candidates, Mr. Knutson informed the candidates about the possibility that a decision would be made at this meeting. Minutes prior to this meeting Mr. Knutson received a voicemail from Ms. Hallsmith stating that she had signed a four (4) month contract with a non-profit organization in Montpelier, Vermont. Should the position be re-opened Ms. Hallsmith would like to be considered, but at this point she is unavailable for a minimum of four (4) months.

Mayor Schwieterman continued, stating that two potential motions had been made with two separate outcomes in mind. The first motion made by Trustee King failed for lack of a second and the floor is open for another motion including Trustee Goold who could re-state his original motion if he chose to do so. Mayor Schwieterman believes there is a larger discussion that the Board needed to have. If the Board majority wished to proceed with hiring Ms. Hallsmith, does the new information effect that decision, the potential to re-open the process had been mentioned, or moving forward with the potential motion Trustee Goold offered previously. Trustee Ayers added that Ms. Hallsmith currently is involved in a claim for an unjust termination from the Montpelier City Planners office and has a status conference scheduled in Montpelier for later in March. If the conference is adjudicated in her favor she could potentially get her job back with the City of Montpelier. Trustee Ayers added that he received copies of the letters from the City of Montpelier of the circumstances surrounding her termination and discussed the items included in the letters. Trustee Ayers believes offering Ms. Hallsmith a job at this point would be inappropriate. Trustee Ayers also questioned the hiring committee decision to complete the detailed background information after the offer of employment and believes it is better to complete the background prior to a job offer for any position. Trustee King thinks it is fine that Trustee Ayers took it upon himself to investigate Ms. Hallsmith but does not believe that the termination or potential outcome of the hearing has any bearing on the Board offering Ms. Hallsmith the position. Trustee Ayers believes that a termination for insubordination should be considered. Trustee Goold added that the information could be located on Google regarding Ms.

Hallsmiths termination and that it is not pertinent. The three (3) candidates are diverse, all offer good things to the Town, but all also come with a history. Trustee Goold stated that the Board should not be dissecting the individual candidate's history stating this is why we should not hire, but should be looking at those qualities that say this is why we should hire that person. Trustee Goold reiterated that Barbara Peterson is the right person for the position.

Mayor Schwieterman clarified for the Board and audience that background investigations have begun through the police department and that the more thorough background check would continue on the candidate the Board offers the position to. Once the background has been completed to the satisfaction of the Board, Mr. Knutson will head up the contract negotiations. Trustee Goold added that Ms. Peterson has been employed by the Town for eleven (11) years, what more background check is needed on her? Trustee Kleinman asked what the delay would mean if the Board moved forward with hiring Ms. Hallsmith. Trustee Goold stated it means Ms. Hallsmith is a flight risk. Her extensive travel, experience, and background shows when she gets a better offer she will leave.

Mayor Schwieterman reminded the public of proper decorum for a Town meeting.

Trustee Goold moved to hire Barbara Peterson as the Town Manager. Motion failed for lack of a second. Trustee Sauter moved to re-open the search for the Town Manager position. Trustee Ayers seconded the motion and added that he felt that the Board should consider tabling the issue in its entirety to allow for time to digest all of the new information received. There are options available such as waiting for the new council to be seated, calling a special meeting, or completing under unfinished business at the Council meeting on April 8<sup>th</sup>. Cathy Wissbeck addressed the Board stating that former councilman Larry Wissbeck who worked on the Town Manager hiring wanted to attend the meeting but was feeling too ill to do so. Ms. Wissbeck spoke in favor of hiring Ms. Peterson because she has been committed to the Town. Hiring Ms. Hallsmith would be a mistake. Ms. Wissbeck believes that Ms. Hallsmith showed a lack of respect for the time and money invested in the process by calling at the last minute with her availability changed. Re-opening would be a mistake, too much time has already been used in the process and the Town could lose Ms. Peterson and gain an unknown.

Suzanne Watson believes it is sad that because of changes in circumstances the Town is left with a small pool of candidates to choose from. Trustee Goold disagreed, stating that the process was thorough, the candidates that dropped out do not want the job, pick from the final candidates who do want the job. Andrea King asked the board what the opinion of the assessors Mr. Charles and Mr. Clifton were. Ms. Hallsmith was the highest ranked candidate with Ms. Peterson as second. Charles Stewart reiterated his opinion that the decision should be delayed until the new council members are seated. Richard Schmidt agreed, stating the Board has done a fine job going through the process of selecting and interviewing candidates, Ms. Peterson is very good at her job, but that he believes the new Board should decide the Town Manager position. Discussion ensued about the pros and cons of tabling the decision until the new Board is seated, the salary range offered, the process that was utilized for advertisement, interviewing, and hiring, and the need to make a decision. Susie Kaldis believes that an increase in the salary range offered for the Town Manager position is not going to secure faith in leadership or buy the integrity that Ms. Peterson has. Suzanne Watson questioned the validity of comments made by people in the audience who did not live within the town limits. Mayor Schwieterman stated that he allows anyone who wishes to speak the opportunity to do so, and that while the Board makes regulations for those who live within the Town limits he believes the Board represents those living in the outer area of Paonia as well. Trustee Ayers withdrew his second to the motion made by Trustee Sauter to re-open the search for the Town Manager position. Motion failed for lack of a second.

Trustee Kleinman added that in the beginning of this process she had a very clear idea of who she felt was the best candidate for the Town Manager position. As the process went on she too got excited about the idea of fresh blood and the possibilities, but looking at where the Board is at now it has become clear to Trustee Kleinman that there is one (1) person dedicated to the Town and that Trustee Kleinman realizes now that Ms. Peterson has been the best candidate all along and shows that when everyone else falls away the Town has her. Trustee King asked what exactly Trustee Kleinman was saying. Trustee Kleinman stated she is putting her support behind Ms. Peterson. Trustee King moved to table the discussion to the next meeting. Trustee Ayers seconded the motion. Trustee Sauter asked for clarification that the Town Manager discussion would fall under old business at the next council meeting. Trustee Ayers withdrew his second after confirmation was given by Mayor Schwieterman that the discussion would continue under old business. Trustee Sauter then seconded the motion to table until April 8, 2014 under unfinished business. The Mayor polled the vote for clarification and the motion passed with Trustees Ayers and Goold voting "nay".

## **New Business**

### Amending Resolution 2014-04 – Cancel Election

Mayor Schwieterman read the amendment to Resolution 2014-04 correcting the last day for write-in candidates from March 14, to March 12, 2014, and offered a formal apology for the error. Trustee Sauter moved to approve the resolution amendment. Trustee Ayers seconded. Mayor Schwieterman opened for discussion. Trustee Goold was dismayed that the error happened but was more dismayed at how hard it is to get people to run for Town Council. Susie Kaldis asked if the write-in candidate had been with-in the dates allowed would there have been an election on April 1, 2014. Mayor Schwieterman stated the write-in candidates name would not have appeared on the ballot but the three (3) candidates who completed the election packet process would have been listed. Ms. Kaldis said she wanted the election to happen so people would have been informed about the candidates. Charles Stewart wished an election would have happened as well, but assured Ms. Kaldis that he, Ms. Watson, and Mr. Bradford had been attending meetings for some time and were sincere in their desire to serve on the Board. Suzanne Watson stated she felt that the office staff discouraged her from turning in her packet. The motion was brought to a vote and passed unanimously.

### Resolution 2014-05 – Heart and Soul Values

Mayor Schwieterman gave a brief synopsis of the work session prior to the meeting and read the Heart and Soul Values included in the resolution. Alexis Halbert was present and provided an overview of the Heart and Soul process, the desire of the Heart and Soul team to be a sounding board for the community, and the hope that the values would be a guide as part of the larger framework for leadership. Linda Long asked what impact the resolution would have on the Board and the Town. Mayor Schwieterman stated he envisioned the values being something he could view as a support for his decision making process and is a reminder when making a decision of how that decision fits with the core values of the community. Andrea King asked how many people filled out surveys. Ms. Halbert stated that between one thousand five hundred (1,500) and two thousand (2000) individuals were contacted over a two (2) year period. Trustee Sauter moved to approve resolution 2014-05 as presented. Trustee Kleinman seconded the motion and Mayor Schwieterman opened the floor for discussion.

Trustee King appreciated the hard work of the Heart and Soul group and the values that came from it but expressed concern about further implications on decision making the resolution could have. Conversation continued regarding the possible impacts of the resolution on current and future council members. Ms. Halbert clarified that in no means are the values authoritarian and in no means intended for the values to drive decision making one way or another; but is intended to be one of the tools used to insure the board works with the community in mind during the process of decision making. Elaine Brett added that the resolution is not to become law but is a comprehensive representation of the values of the community.

Trustee Ayers left at 8:40 p.m.  
Trustee Ayers returned at 8:42 p.m.

Trustee Kleinman sees the values bring people back into the equation which often is lacking in government. Linda Long and Lynn Bear questioned if the elderly were adequately represented throughout the Heart and Soul process. Ms. Brett reiterated that the elderly were represented, if not more than other groups because of the population of the North Fork is skewed for the over sixty (60) and the church groups and other organizations targeted are heavily populated by the over sixty (60) age demographic. Charles Stewart stated it is arrogant for the board to tell the community what the values of the community are when it is the community who should be telling the Board what the values are. The motion was called for a vote with Trustees Kleinman and Sauter voting “aye”, Trustees King and Ayers voting “nay”. Trustee Goold abstained creating a tied vote. Mayor Schwieterman voted “aye” and the motion passed.

### Ordinance 2014-01 – Lease Purchase Agreement

### Ordinance 2014-02 – Lease Purchase Agreement

Mayor Schwieterman read the first paragraph of the ordinance, clarifying that both Ordinance 2014-01 and 2014-02 were identical but were written separately for each new vehicle. Per page 37 of the adopted 2014 budget the lease purchase of two new police department vehicles was approved and the ordinances give the authority to move forward with the lease purchase. Trustee King moved to approve Ordinances 2014-01 and 2014-02. Trustee Kleinman seconded the motion. Charles Stewart asked if the purchases were a necessity. Mayor Schwieterman gave some background on the negative effect on the police department when a vehicle is inoperable and the continual cost for repairs during 2013 alone. Discussion ensued regarding the different options for the older vehicles. The motion was brought to vote and passed unanimously.

### Slow Food Western Slope – Special Event Liquor Request

Jim Brett was present on behalf of Slow Food Western Slope. Slow Food Western Slope is requesting

a special event liquor permit for an upcoming event to be held at the Paradise Theater, located at 215 Grand Avenue, Paonia, CO 81428. Trustee King moved to approve the special event liquor request for April 11 and 12, 2014 from 6:00p.m. to 11:00 p.m. both nights. Trustee Ayers seconded and the motion passed unanimously.

Trustee Ayers left at 9:10 p.m.  
Trustee Ayers returned at 9:11 p.m.

#### Bond Counsel - Agreement

Mayor Schwieterman explained that need for specific legal counsel to navigate the process for the leveraged loans received from the Water and Power Authority (WPA) for the two-million (2,000,000) gallon water treatment plant upgrade.. Town Attorney Marek is not able to provide bond counsel but is aware of the necessity and signed off on it. The Town is utilizing the same representation as in 2010 for the one-million (1,000,000) gallon water treatment plant upgrade. The cost of bond counsel is included in the monies estimated for the project. Trustee King stated he felt that this agreement should have been out for bid. Mayor Schwieterman agreed but stated time did not allow for the bidding process. Trustee Goold moved to approve the bond counsel agreement. Trustee Ayers seconded and the motion passed unanimously.

#### Additional Business

Mayor's Report: Mayor Schwieterman read a thank you note received from Roger Bissell for the ongoing work in Apple Valley Park by the Public Works Department.

Public Works: Director Loberg reported continued work on the Apple Valley Park path. Aspen Tree Service is in the Town Park trimming trees. Trustee Goold asked if work was being planned for the Apple Valley basketball courts and when the park was scheduled to be finished. Director Loberg stated the basketball courts repair is ongoing and he hopes to be finished by the end of April but is not sure Public Works will meet that deadline.

Police Report: Chief Leon reported being very busy completing the background checks on the Town Manager finalists. Code enforcement is addressing an ongoing issue in Lee's Trailer park. Chief Leon and Director Loberg plan to meet to discuss signage at a few locations for safety measures. An officer gave a safety talk at the elementary school and the department continues community policing. No major crimes have been reported.

Finance Report: Trustee Ayers asked if a plan was made for check signing to continue after he is no longer on the Board. Mayor Schwieterman explained that disbursements will fall under old business at the April 8, 2014 meeting so Trustee Ayers will be able to sign. Trustee Ayers expressed appreciation to former Trustee Larry Wissbeck and wished him a speedy recovery.

Parks Report: Trustees Goold and Kleinman had nothing to report.

Public Safety Report: Trustees Ayers and Goold had nothing to report.

Street Report: Trustee King reminded Trustee Kleinman that notes from the Third Street informational meeting still needed to be provided to Director Loberg.

Water/Sewer Report: Trustee King asked if there were any updates on the one million (1MG) gallon storage roof repair. Director Loberg stated no, but that a meeting is scheduled to meet with the engineer for the lining of the half-million (.5MG) storage tank. Bidding will begin soon for the two-million (2MG) water treatment upgrade. Mayor Schwieterman added that the final paperwork for the entire project is not expected to be executed until the end of May. The planning can be complete but the project cannot be started until then.

Personnel Report: Trustee Sauter gave her farewell and offered to continue work with the Town Manager hiring committee should the position be re-opened.

#### Minutes:

Trustee Goold moved to accept the minutes for March 11, 2014, Special Meeting minutes for March 13, 2014 and March 18, 2014. Trustee Ayers seconded and the motion passed unanimously.

#### Disbursements:

Trustee Ayers moved to pay the bills through March 25, 2014. Trustee Goold seconded and the motion passed unanimously.

9:26 p.m. Meeting adjourned.

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Deputy Town Clerk, Corinne Ferguson

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Mayor, Neal Schwieterman