

**Town Council Regular Meeting**  
**Town of Paonia, Colorado**  
**April 23, 2013**

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Council held Tuesday, April 23, 2013 was called to order at 7:03 p.m. with the Pledge of Allegiance. Those present were Mayor Pro-Tem Corinne Ferguson, Trustees Brian Ayers, Eric Goold, Ross King, Amber Kleinman and Larry Wissbeck; Chief Scott Leon; Public Works Director Travis Loberg; and Town Clerk Barbara Peterson. Mayor Neal Schwieterman was absent.

Mayor Pro-Tem Ferguson determined a quorum was present and proceeded with the meeting.

**Approval of Agenda**

Trustee Wissbeck moved to approve the agenda as presented. Trustee Goold seconded and the motion passed unanimously.

**Paonia High School (PHS)**

Mandy Bushta and Ty Coats reported the ACT's would be held on April 26, 2013 for Juniors. Students are participating in a two (2) week seatbelt safety awareness program. Prom is scheduled for May 4, 2013. Seniors last day is May 14, 2013 with graduation scheduled for May 25, 2013. Because the powder puff game was cancelled in the fall due to weather a kickball tournament will be held next Wednesday.

**Announcements**

- None

**Visitors**

Jason Ross advised the Board that bricks are falling off the side of the Mason's building. Mr. Ross had notified the front office, but nothing has been done yet. Clerk Peterson noted the Building Official has made numerous attempts to contact the owners with no response. Because there has been no contact yet, a letter will be sent. Parks Committee will investigate and report back at the next meeting.

**Unfinished Business**

**Employee Retirement Plan**

Trustee Wissbeck noted the Mutual of Omaha plan has been thoroughly reviewed and was held up for a completed agreement to be presented before a decision would be made. Trustee Wissbeck moved to accept the Mutual of Omaha offer subject to final contract perusal by the Board. Trustee Kleinman seconded. Trustee Ayers noted it is the plan the employees prefer. Trustee King objected, noting the request was to have completed documents in place, have an agreement with the individual providing counseling and all documents reviewed by legal prior to the Board taking action. Trustee Wissbeck noted the objection, voicing the opinion that the committee has reviewed the material, and the attorney has reviewed and not found anything to be concerned about. Motion was brought to a vote and passed with Trustee Ayers, Kleinman and Wissbeck voting "aye", and Trustees King and Goold voting "nay". Trustee Goold asked why Mayor Pro-Tem Ferguson did not vote. Mayor Pro-Tem Ferguson indicated that while she retains her right to vote in the Mayoral seat, she chose not to vote unless it was needed to decide a tie.

**New Business**

**Proclamation – Eagle Wrestling Appreciation Day**

Mayor Pro-Tem Ferguson read the document proclaiming April 25, 2013 as Paonia Eagle Wrestling Appreciation Day and recognizing the accomplishments of Coach Andy Pipher.

**Proclamation – Arbor Day**

Mayor Pro-Tem Ferguson read the document proclaiming April 26, 2013 as Arbor Day.

### Fire District – Right of Way (ROW) Variance

Matt VanVleet was present. The Fire District is requesting a ROW variance for a flagpole and a memorial hose cart. Mayor Pro-Tem Ferguson read the Building Official comments and the Planning and Zoning Commission (P&Z) minutes of April 16, 2013. Trustee Kleinman recommended using solar to illuminate the flagpole. Trustee Wissbeck noted that during the P&Z deliberations, the bike shop complications could be applicable in this instance. If the distinction were made between public and private, then decisions would also have to take into account schools and other public facilities. Discussion regarding the bike shop variance requests ensued. The maintenance of the memorial would be provided by the Fire Department. Discussion regarding a commercial sign and a memorial encroaching in a ROW ensued with no definitive differences noted. Ron Rowell indicated that the Fire District has enough people to take care of any snow removal that needs to happen on site. With respects to the public versus private issue, Mr. Rowell noted that his sign for the Paonia Cleaners was run over and has not been replaced because his opinion is that the sign is on public property for private gain, whilst the memorial and flagpole will not produce any gains other than improving the site and honoring Fire District members. Chief Leon's concerns included the elevation of the memorial cart and traffic visibility, and noted most of the traffic coming out of the area is by firemen. Public Works Director Loberg's concern regarded snow removal, which was already addressed. Trustee Wissbeck moved to approve the ROW variance request as presented. Trustees Kleinman and Ayers seconded. Trustee Ayers voiced concerns regarding the flag and requested the Fire Department consider placement before installing to ensure it will not hit the building at half-staff. Motion was brought to a vote and passed unanimously.

### Gutshall – Fence Variance

Tamra Gutshall was present. Ms. Gutshall is requesting to keep the lattice and extension on her fence surrounding the rear portion of her property located at 220 Box Elder Avenue. Ms. Gutshall said that the lattice has been installed since 2005 for privacy reasons. Ms. Gutshall petitioned the neighborhood and submitted 26 signatures for consideration. Mayor Pro-Tem Ferguson read the Building Official comments and the P&Z minutes from January 15, 2013. When asked if there was any dispute to the information presented, Ms. Gutshall indicated there were building permits for the fence, as it was included in her addition permit. Marge Price, neighbor, commented that she did not see the petition. Trustee Wissbeck noted that P&Z considered this request at length. This issue has been dragging on for years and Ms. Gutshall has not brought the fence into compliance despite repeated notification. Trustee Wissbeck also noted that subsequent to the P&Z meeting in January, the applicant withdrew the variance request and signed a statement that the fence would be brought into compliance by April 15, 2013. That date passed, and Ms. Gutshall requested that Council reconsider the variance request. Cally Gallegos, neighbor, thinks the fence is unsightly. Ms. Gallegos also volunteered that when she left the P&Z meeting in January they were standing outside and watched as Ms. Gutshall "flip off" herself, Constantine Hirschfeld and another person. Ms. Gutshall did not come to the Gallegos house for a signature and feels the petition is not valid as Ms. Gutshall picked and chose who would sign it. Ms. Gallegos indicated that nothing has changed on the property. Ms. Gutshall indicated that the petition was for those who were neutral and did not visit the homes that she knew were opposed to the variance. David Bradford voiced his objection, as the fence is unsightly, poorly designed and constructed. The newly constructed portion of the fence is 76" high and regulation height is at 72". Ms. Gutshall said that the Building Official approved of the new enclosure. Ms. Gutshall requested to read letters of approval. Mayor Pro-Tem Ferguson denied the request as Ms. Gutshall had requested that the opposition letters not be read in the open meeting. Ms. Gutshall provided a public apology for her behavior after the P&Z meeting. Trustee King moved to deny the variance request as presented. Trustee Wissbeck seconded and the motion passed with Trustee Ayers abstaining and Trustee Goold voting "nay".

### Delta County Economic Development (DCED) – Letter of Support

John Gavin, DCED Board Member and Internet Technician (IT) Manager for the Library District, is requesting a letter of support for the Delta-Montrose Electric Association (DMEA) to pursue funding for fiber optic cables to run from Tri-State main lines to DMEA's substations within Delta County. The letter would also support a change in DMEA's procedure for obtaining commercial easements for the new lines. This is a local initiative and has a higher probability than an earlier attempt by Eagle Net.

8:14 p.m. Trustee Goold left the meeting.

Trustee King voiced that TDS (Delta County Tele-Com) has broadband and to that extent allocated capital funds and recoups those funds by charging customers. Trustee King added that costs could be capitalized and charged within customer premiums.

8:16 p.m. Trustee Goold resumed his seat.

Mr. Gavin noted that SCAYDA has been install whereby electronic readings of meters are obtained. Discussion regarding electric customer subsidizing the installation, fair market competition and internet business opportunities ensued. Trustee Goold moved to approve writing the letter of support as presented. Trustee Ayers and Kleinman seconded and the motion passed unanimously.

North Fork Mosquito Abatement District (MAD) – Funding Request

Rain Klepper, new MAD Board member, is fundraising for equipment. 2012 was the worst on record for the valley regarding mosquitoes, with 60% carrying serious types of diseases such as meningitis and encephalitis. In December 2012, the Center for Disease Control reclassified the valley as having an epidemic. The MAD has tried various methods of treating for mosquitoes as exploring other funding options. After discussion regarding funding options, Trustee Goold moved to support the North Fork MAD. Trustee Kleinman seconded and the motion passed unanimously. Amount of funding is to be determined.

Resolution 2013-05 Cable Franchise Change of Control

Mayor Pro-Tem Ferguson read for visitor benefit. The resolution approves of the parent company of the parent company of Bresnan, the local cable company, being sold. Attorney Sandra Nettleton noted that nothing in the existing franchise agreement changes. Trustee King moved to adopt Resolution 2013-05 as presented. Trustee Wissbeck seconded and the motion passed with Trustee Goold voting “nay”.

**Additional Business**

Mayor’s Report:

Mayor Schwieterman was not available to report.

9:03 p.m. Trustee Ayers left the meeting.

Public Works: Public Works Director Loberg reported waiting for estimates for paving costs on Third Street. Staff has been working on Spring maintenance and installing meters. Trustee Kleinman noted receiving and e-mail from Suzanne Watson regarding trees at the old wastewater treatment plant site. An evaluation will be made regarding the trees. Trustee Wissbeck commended Public Works on the recent street sweeping and requested that parking lines be painted on Grand Avenue.

9:05 p.m. Trustee Ayers resumed his seat.

Police Report: Chief Leon reported no major crimes. The department has joined in the seatbelt coalition. Current observations noted younger drivers are wearing more seatbelts than older adults.

Finance Report: Trustee Wissbeck reported changes regarding the Public Works Director, which will be reported out of Personnel.

Parks Report: Trustee Kleinman will be meeting with the Teen Center Committee and the BMW Rally Master regarding the BMW Rally this weekend.

Public Safety Report: Trustees Ayers had nothing to report. Trustee Goold reported resigning from this committee.

Street Report: Trustee Ferguson reported that Wilmore and Company are able to open the CAD files submitted by the street light evaluation company. Public Works Director Loberg had submitted sidewalk repair estimate in the amount of \$27,000 for approximately 400 feet of sidewalks. Copies of the submittal will be made available for the rest of the Board.

Water/Sewer Report: Trustee King reported receiving a letter that will need approval from the property owner to review individual utility records.

Personnel Report: Trustee Wissbeck reported that Francis Winston of Winston Water Works has resigned. The Town is obligated to have an Operator in Responsible Charge (ORC). The Committee is recommending a \$4,000 bonus to Public Works Director Loberg to cover the interim duties as he obtains his ORC certification. Upon certification, Director Loberg is slated for a \$10,000 raise in salary. When asked if this would make Director Loberg the highest paid employee, Trustee Wissbeck

was not sure, but definitely felt this was fair compensation for duties performed. Trustee Kleinman noted the Town actually saves money by paying Director Loberg for this service, rather than contracting out. Trustee Goold voiced concern that Director Loberg may become overworked. Trustee Ferguson noted it is the Director's responsibility to build his staff to function. Director Loberg has shown is capable of doing that. There are ads for a new Public Works person contributes to moving in that direction. New hires and in-house training could reduce the number of hours the Director works. Trustee Wissbeck moved to approve the matters as outlined in the recommendation memo regarding Travis Loberg. Trustee King seconded. Trustee Goold addressed Director Loberg stating full confidence and is satisfied with Director Loberg. Trustee Goold is objecting to the process. Motion was brought to a vote and passed with Trustee Goold voting "nay".

Minutes:

Corrections noted. Trustee King moved to approve the minutes of April 9, 2013 as amended. Trustees Goold and Kleinman seconded and the motion passed unanimously.

Disbursements:

Trustee Wissbeck moved to pay the bills ending April 23, 2013. Trustee Goold seconded and the motion passed unanimously.

Mayor Pro-Tem Ferguson thanked everyone for putting up with her and she looks forward to the mayor returning from vacation. Trustee King asked why the votes were polled, Mayor Pro-Tem Ferguson noted that all Board members are required to vote. There was some question at the last meeting and this method addressed that issue.

9:27 p.m. Meeting adjourned.

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Town Clerk, Barbara Peterson

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Mayor Pro-Tem, Corinne Ferguson