

Town Council Regular Meeting
Town of Paonia, Colorado
August 13, 2013

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Council held Tuesday, August 13, 2013 was called to order at 7:02 p.m. with the Pledge of Allegiance. Those present were Mayor Neal Schwieterman, Trustees Amber Kleinman, Brian Ayers, Eric Goold, Ross King, and Larry Wissbeck; Chief Scott Leon; Public Works Director Travis Loberg; Finance Officer Cindy Jones; Attorney James Briscoe; Deputy Clerk Corinne Ferguson; and Town Clerk Barbara Peterson.

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

Approval of Agenda

Mayor Schwieterman suggested withdrawal of Resolution 2013-08 and replace with the Chamber of Commerce Special Event Liquor License Request. Trustee Goold made a motion to accept the agenda as amended. Trustee Wissbeck seconded and the motion passed unanimously.

Announcements

- Mayor Schwieterman announced that the Town filled the Deputy Clerk vacancy. The front office has been backlogged with the staff shortage and asked for continued patience.
- Mayor Schwieterman noted the sidewalk discussion will be held during the Streets Committee report. If necessary, the conversation will be continued at a later date for additional public comment.
- Former Trustee Corinne Ferguson was presented a certificate of appreciation for her time and service on Council.

Visitors

Mr. Steve Keenan stated he hoped to start a conversation regarding carbon taxes that the coal mines will be facing soon. The carbon tax discussion has been presented on a national level and adopted in Australia. The carbon tax has the potential to start a new revenue stream. Mr. Keenan stated that historically, miners would close down to assist the fruit harvests and this is an opportunity to help the miners. Mr. Keenan will provide the information to the Clerk's office.

Unfinished Business

None

New Business

Ayers – Hedge Variance

Trustee Ayers recused himself from the proceedings. Mr. Ayers is requesting approval for the hedge on his property located at 206 Rio Grande Avenue. Mayor Schwieterman read letters of support in to the record. Building Official Chad Gartman's notes were read in to the record, as were Planning and Zoning Commission (P&Z) minutes from July 2, 2013 and July 16, 2013. Mr. Ayers has lived in his home for almost 14 years and the hedge is the same size and shape since the home was purchased. Many residents will attest to the historic presence of the hedge. Discussion ensued regarding softscapes and hardscapes and how other municipalities differentiate between the two. Trustee Wissbeck felt the P&Z board bent over backwards to grandfather the hedge at its present height. The hedge does encroach on the sidewalk. The P&Z recommendation was that the hedge height could remain, but the sidewalk must remain Americans with Disabilities Act (ADA) compliant by either cutting back the hedge, or adding cement or pavers to widen the sidewalk area. Trustee Goold expressed dismay at the late hour the minutes were available to the Board and was not sure enough information was available to make an informed decision. Trustee Goold also stated that the proposed action from P&Z seemed unclear. Mayor Schwieterman re-stated the P&Z recommendation for the

Board. Paul Douglas was not happy with the P&Z recommendation and believes it was not based on facts. Mr. Douglas stated he felt the ordinances and codes are there for continuity and a level playing field for all townspeople. Mr. Douglas believes the P&Z recommendation creates a double standard. Suzanne Watson submitted a three-year plan suggested by the founder/director of Cheyenne Gardens based the age of the hedge a three-year cutback plan should be adhered to. She expressed concern about neighbors picking at each other and requested a careful approach. Don Vallelonga seconded Paul Douglas' opinion that the variance creates a double standard but had no issue with the three year plan to bring the hedge in to compliance. Linda Long would like the hedge brought back to Americans with Disabilities Act (ADA) compliancy. Discussion on the necessity of variances ensued. Trustee King stated the ordinances need to be addressed to avoid multiple exceptions and a lack of compliance for what is deemed an appropriate land use. Doug Long agreed with Trustee King, adding that the Council cannot hold one person accountable and not another. Trustee King had not heard a firm commitment from Mr. Ayers on the hedge plan. Mr. Ayers will either trim back the hedge or widen the sidewalk; decision will be based on the cost. Trustee Kleinman moved to grandfather the current hedge and allow hedge trimming or widening of the sidewalk within three years. Trustee Goold seconded. Trustee Wissbeck agreed with Trustee King that the Town needed a plan in writing. Trustee Goold believes that the open meeting serves as a written commitment. Trustee Goold stated the hedge is an asset to the community. The motion passed with Trustee King voting nay.

Mountain Harvest Festival - Special Event Liquor License Request

Margot Richardson was present. Mountain harvest Festival is requesting a special event liquor license for September 28, 2013 to sell alcohol at a Saturday night concert held at the Paradise Theater located at 215 Grand Avenue. A letter from the Chamber of Commerce granting permission for use of the theater was submitted. Trustee Goold stated in the past the Paradise Theater held the license for the event. Trustee Kleinman moved to approve the special event liquor license as requested. Trustee Wissbeck seconded and the motion passed unanimously. Ms. Richardson requested approval for a vendor to camp in the park for security reasons for a separate event that was approved at a previous meeting. Council agreed to allow an extra day of use under the parameters of the original approval.

Town Manager – Grant Request

The Town is requesting grant funding from the Department of Local Affairs (DOLA) for the Town Manager position. The grant request was due and submitted August 1, 2013 for three (3) years of funding in the amount of \$181,423. The first year, DOLA will pay for 75% of the position, 50% for the second year and 25% for the third year. DOLA requires approval from the local board. Trustee King moved to approve the grant submission to the Department of Local Affairs as presented. Trustee Kleinman seconded, and the motion passed with Trustee Goold voting “nay.”

BMW Rally – Park Request

Bob Bushta was present. The BMW planning group is requesting use of the Town Park, located at 700 Fourth Street, from July 16 to 21, 2014 with the rally being held July 17th to 19th, 2014. Parks Maintenance Operator Mikel Altenhofen had provided information that the park will have plenty of time to recover from Cherry Days. Marty Durlin questioned the time frame for live music in the park. Current parameters were given while Chief Leon noted he is working with a group of trustees to address noise concerns and a policy for continuity. Trustee Goold asked what feedback had been received from the Beemers this year. Mr. Bushta stated the attendance numbers were lower this year, but the event went smoothly. Trustee Wissbeck moved to approve the BMW Rally use of Town Park as requested. Trustee Kleinman seconded, and the motion passed unanimously.

Chamber of Commerce – Special Event Request

Amy Deluca was present. The Chamber of Commerce is requesting a special event liquor license for a concert series being held at the Paradise Theatre, located at 215 Grand Avenue for the dates of August 24, 30, September 6 and 7, 2013. When asked how many permits were allowed per year, Clerk Petersen stated ten permits are allowed per calendar year. Trustee King moved to approve the Chamber special event liquor license as requested. Trustees Ayers, Kleinman, and Goold seconded, and the motion passed unanimously.

Our Colorado River – Support Request

Richard Van Guytenbeck with Trout Unlimited was present. In May, the *Our Colorado River* program was completed which increased the cooperation between the agriculture and tourist communities. Mr. Van Guytenbeck requested an endorsement from the Board of Trustees for the programs' five core values. Any person who chooses to support the program can sign a letter of support online (www.ourcoriver.com). Trustee Goold would prefer to see the letter before it was signed. Trustee Goold moved to instruct staff to draft a letter of support for future vote. Trustee Kleinman seconded. The motion passed unanimously.

Delta County School District – Facilities Agreement

Trustees Goold and Kleinman, Clerk Peterson, and Chief Leon worked together with Todd Markley and Superintendent Caryn Gibson over several meetings to draft a facilities agreement with the Delta County School District. The agreement has been reviewed by Attorney Briscoe. No formal contract had been established for previous years outlining responsibilities and fees. The proposed contract grants the school district use of the Town parks for a fee of eighteen hundred dollars (\$1800.00) per year. Trustee Goold stated he was not confident in the school district's ability to pay because of restrictive budgets and wishes the contract and back-pay owed could have been resolved in a more favorable way for the Town, but was happy to have something. Trustee Kleinman moved to approve the facilities use contract as presented. Trustee Goold seconded and the motion passed unanimously. Trustee Goold requested clarification for the Council and public, that the Town does not run Volunteer Park. Chief Leon stated the Town does not; Volunteer Park has its own operating board.

North Fork Vision 2020/Heart & Soul – Update/Representative Request

Alexis Halbert was present. Ms. Halbert offered a brief history and stated that a newsletter was available and on the Paonia Message Board online. The group is moving in to the final phases of the project. The group has begun to review the surveys submitted, and are researching resources and opportunities that will support and grow the main values identified. On October 25 and 26, 2013 a film will be shown at the Paradise Theater to look at both the values and issue identified. The project is slated to end December 2013. Ms. Halbert thanked the Board for its ongoing support and discussed a Community Summit meeting that will be held October 26, 2013 and asked for a Council member or staff member to attend. Trustee Goold expressed interest. Trustee Goold asked how the ideas expressed through the program would be incorporated into the Towns Master Plan. Ms. Halbert stated that is a community issue and would be up to the Council.

8:48 p.m. Trustee Kleinman left the meeting.

Rocky Mountain HMO – Annual Update

Upon renewal of the Towns current health insurance plan with Rocky Mountain, there will be a 2% increase. The Town has the opportunity to extend the renewal period because the plan will no longer be available in 2014. Trustee Goold asked if Council could be insured under the plan.

8:51 p.m. Trustee Kleinman resumed her seat.

Attorney Briscoe stated that Trustees are not eligible. Rocky Mountain HMO is offering the extension to allow time to adjust to the Affordable Care Act. Rocky Mountain HMO expects premiums to increase substantially in the near future. Trustee Wissbeck moved to approve the renewal and extension. Trustee Goold seconded, and the motion passed unanimously.

Trustee – Vacancy

Mayor Schwieterman gave Council the options available to address the vacant trustee seat; request letters of interest and appoint, have a special election, or do nothing and let Delta County appoint someone to the Board of Trustees. Trustee Wissbeck moved to solicit letters of interest to be submitted to Council by September 1, 2013. Trustee Kleinman seconded. Discussion ensued on how the appointment would be made and how to guard against bias. Mayor Schwieterman stated that the guard in place for biased appointed officials was the election process in which they must run for election by popular vote. Trustee Ayers noted that September 1, 2013 falls on a Sunday. Trustee Wissbeck rescinded his original motion and moved to solicit letters of interest by September 3, 2013. Trustee Kleinman seconded, and the motion passed unanimously.

Mayor Pro-Tem – Appointment

Mayor Schwieterman stated in jest that it is one of his many powers to appoint Council members to different groups and committees. Mayor Schwieterman asked Trustee Wissbeck if he would take on the task of Mayor-Pro Tem and Trustee Wissbeck agreed. Mayor Schwieterman stated Trustee Wissbeck is so appointed.

9:02 p.m. Meeting recessed.

9:08 p.m. Meeting reconvened.

Additional Business

Mayor's Report: Several months ago, while visiting Illave, Peru, a request for a fire truck was made of Mayor Schwieterman. The Town currently owns a 300-gallon pumper truck. Trustees had stated interest in possibly donating the pumper truck to Illave. The Town has no real use for the pumper truck and it is the responsibility of the Illavian government to acquire transportation of the truck, should the Town wish to donate it. Trustee Wissbeck moved to donate the fire truck to Illave, Peru. Trustee Kleinman seconded. When asked what the market value of the truck was, Chief Leon stated there is not a value on the record but would guess somewhere around five thousand dollars (\$5000.00). Motion was brought to a vote and passed unanimously.

Clerk Barbara Peterson attended the Gunnison Basin Round Table meeting where she requested grant funds for the 2-million gallon water treatment project. The board chose to fund the project with thirty-five thousand dollars (\$35,000.00) and approved the submittal to the Colorado Water Conservation Board for the remaining funds requested for the raw water line aspect of the project. This is the first official funding receipt of the for the two million gallon treatment project.

An end of month report was submitted from the Building Official Chad Gartman.

Public Works: Director Travis Loberg reported that the Apple Valley Park path construction has begun. The pipe for the Second Street and Main Avenue culvert repair has been ordered and should be delivered in about two weeks. Who will be contracted to complete the work will depend on who is available at that time.

Police Report: Chief Leon submitted a written report. The police department has been working on numerous speed studies throughout town and the results will be available soon. Preliminary reports for the new Second Street construction showed that 85% of vehicles obeyed the speed limit in that area.

Finance Report: Trustee Wissbeck had nothing to report.

Parks Report: Trustees Goold and Kleinman had nothing to report. Council thanked them for their efforts working with the school.

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

Street Report: Trustee King stated he had inspected the Second Street and Main Avenue culvert with Public Works Director Loberg and found that it had deteriorated and become a traffic hazard. Trustee King moved to approve a thirty thousand dollar (\$30,000) expenditure to correct the ongoing problem, stating the funds would be reallocated from the Third Street repair and repaving project. Trustee Kleinman seconded. Discussion ensued about where exactly the funding would come from in the budget. Mayor Schwieterman explained that other options were explored and applauded Council's decision to fund long-term fixes for problems and not band aid them for the short term.

Trustee King began the sidewalk repair discussion by stating he had heard a lot of discourse from townspeople in reference to the sidewalk notices sent out per direction of the Board. The main areas of concern were identified in the 2007 Paonia Pathways Report. In the past, Council had made an effort to fund sidewalk repairs with a ballot measure that failed at the polls in 2010, leaving this Council no other recourse than the enforcement of the current ordinance addressing sidewalk repairs. Trustee King was glad to see that the notices engaged citizens in the discussion. There had been substantial criticism of the Council's action, but an attempt to ensure the health, safety, and welfare of the community was tried. Paul McRobbie has lived in Town for 37 years and the sidewalks have never been forcefully maintained. Will other areas in town that do not have sidewalks be forced to install them? Mr. McRobbie questioned how those with low income, the elderly, and the disabled will be able to afford the repair costs. The notices have caused panic to some elderly people, including his mother. Mr. McRobbie also said that the timeline given in the notices was not sufficient and should be reevaluated. Don Vallelonga stated the sidewalks have been a liability for many years and some that have been replaced were not completed to code standard. Mr. Vallelonga was not happy to have the Town threaten him with a tax lien. Discussion ensued about the sidewalks damage, the cause of the damage, and how to save trees causing damage. Should the Council consider other materials besides concrete, the ordinance would need amending. Loretha Rolf stated that there is an understanding of what needs to be done. The sidewalks belong to the Town. Why are people being asked to repair what they do not own? Ms. Rolf remembers when the ordinance was first drafted around 1986. It was not well received then and has never been enforced. Council was encouraged to read the Paonia Pathways report and discuss the possible costs with homeowners. The way the ordinance is written, a

homeowner could be responsible to pay for repairs on the streets in front of their homes as well. Ms. Rolf asked if Council was planning to take people's homes because they could not repair a sidewalk. New owners may be paying for years of neglect from previous homeowners and Council neglect. Most homeowners will need to borrow to pay for the repair and added to that is the cost for a building permit. Ms. Rolf is an advocate for the elderly and asked for reconsideration of the approach. Trustee King asked what people thought of the previous ballot question sent for a vote attaching a fee to the utility bills. Ms. Rolf stated she was not paying attention then, offered an apology for that, and felt that the ballot question was not clearly communicated before, but would be glad to help communicate new ideas to the public. Trustee Wissbeck remembers clearly when the ballot question went to the voters. His impression was that the community felt that the Town was trying to gouge them for more money while others did not want to pay for sidewalks they do not have in front of their homes. Discussion ensued about variances and the public perception of local government. Suzanne Watson commented that an issue with the last ballot measure was a lack of a sunset clause, and was too broad to keep the townspeople comfortable. Mayor Schwieterman noted that it was exactly the reasons being stated that had kept previous Councils from enforcing the ordinance. What matters in the sidewalk discussion are those who benefit from the sidewalks, not the homeowners, but the people who walk on them. Trustee Ayers believes everyone should share in the sidewalk expenses. Trustee Goold reiterated earlier comments that the Council needed to issue the letters because something has to be done to address the issue, and this Board was elected to make these kinds of difficult decisions. Trustee King stated he would like time to reflect on all the comments and that the timing and further implications from sending the letters were not thought through.

Water/Sewer Report: Trustee King had nothing to report.

Personnel Report: Trustee Wissbeck thanked Trustee King for his interim service on the personnel committee. Trustee Wissbeck proposed that Clerk Peterson should be compensated for her education and the multiple events that had occurred that made it necessary for her to take on ample additional duties. Trustee Wissbeck moved to grant Clerk Peterson a five hundred dollar (\$500.00) a month retroactive bonus for twenty (20) months and a salary increase to fifty-six thousand two hundred and fifty dollar (56,250.00) per year. Trustee King seconded the motion. Mayor Schwieterman expounded adding that Clerk Peterson went from supervising one position to supervising three along with multiple other duties. Suzanne Watson voiced concern that it may be premature to increase salaries while still discussing the hiring of a Town Manager. Ms. Watson stated that Town employees are public servants and should not make more money than those they serve. She is uncomfortable and would like the increase held until the hiring of a Town Manager is finished. Trustee Goold stated he too sees the bonus and increase as alot. Trustee Goold voted against Public Works Director Loberg increase and while he believes that Clerk Peterson is one of the best in the state, he will not vote for a bonus or increase to maintain continuity. Trustee Goold went on to say the wages for department heads make the thought of hiring a Town Manager improbable. The motion was called to a vote and passed with Trustee Goold voting "nay".

Minutes:

The minutes from July 23, 2013 were not available.

Disbursements:

Trustee Wissbeck moved to pay the bills through August 13, 2013. Trustee Ayers seconded and the motion passed unanimously.

10:34 p.m. Meeting adjourned.

Town Clerk, Barbara Peterson

Mayor, Neal Schwieterman