

Town Council Regular Meeting
Town of Paonia, Colorado
August 27, 2013

RECORD OF PROCEEDINGS

The Regular Meeting of the Town Council held Tuesday, August 27, 2013 was called to order at 7:01 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 amending the agenda to include the high school update. Trustee Goold made a motion to amend the agenda to include the Paonia High School update. Trustee King seconded and the motion passed unanimously.

Announcements

None

Paonia High School Update

William Austin, co-president of the Paonia High School Student Council – reported that the high school upperclassmen are excited to begin mentoring programs with the underclassman, specifically the junior high students and freshman class. Mr. Austin stated that Homecoming will be next week. Each class chose a decade through time and will theme their floats for the homecoming parade around them. Mr. Austin gave an open invite for all to attend and cheer on the Paonia Eagles football team Friday night when they play the Grand Valley Cardinals.

Visitors

Steve Keenan left materials for the Council members on carbon taxing and how it will affect the mines. Mr. Keenan believes that being prepared will not only help the coal mines and farmers, but will also keep money in the valley.

Unfinished Business

Sidewalks

Trustee Kleinman provided a draft proposal for the Town to pursue sidewalk repairs. Trustees Kleinman and King met to discuss how to uphold the sidewalk ordinance and provide safe sidewalks without enforcing the imposing of tax liens on the properties that were not in compliance. Trustee Kleinman reiterated that the Council understood that the letters sent out were not received well and that is why the Board chose to hold the notices in abeyance while other options were examined. Trustees Kleinman and King felt that the options were minimal and recommended trying another ballot measure in November 2013 to impose a fee attached to the utility bills adding a sunset clause for reexamination and specifically ear-marking the fee for sidewalk repair and replacement. Trustees Kleinman and King would like to include measures to keep existing trees and plan for roots to minimize future damages to the sidewalks. Trustee King hoped that the residents recognized that they were heard by Council at the previous meeting but wants people to understand that if the sidewalk issue can't be resolved, then Council has no other option but to move forward with enforcing the ordinance as is. Trustee King moved to direct staff to prepare ballot language for the sidewalk fee structure. Trustee Kleinman seconded. Scott Morley asked if the grant to offset the cost of concrete offered by the Town would continue should the ballot measure pass. Trustee Kleinman said yes, the grant would continue. Yvonne Hamby suggested a hybrid option that allows for larger grants offered to the homeowners with the worst sidewalk conditions while Council continues to work with the community for a long-term strategy. Mayor Schwieterman explained that the reason for using the term pathways instead of sidewalks on the previous ballot was to open up grant possibilities that were not otherwise available.

Trustee Wissbeck stated that Council is not permitted to advocate for the ballot measure, but with such a large group attending the meeting their enthusiasm continued in the community for the sidewalk fee could be helpful in getting the ballot measure passed. Mayor Schwieterman clarified that while Council could not spend money advocating for a specific ballot issues, there is no prohibition discussing the ballot measure. The motion was brought to a vote and passed unanimously.

New Business

Chavez – Quit Claim Deed

Jennie Chavez was present. Ms. Chavez owns a lot in the Creek Vista Crossing Subdivision, 413 Vista Drive, and requested a quit claim be issued deeding the Chavez's the extra 2' 8" in front of the property. When the original plat was drawn up the lines were drawn three feet from the right-of-way but when the sidewalk was installed it was placed right to the edge of the right-of-way. Steve Gulick stated he went through the same process in 2007 and at that time was told any other property in the subdivision could do the same. Mayor Schwieterman informed council that during Mr. Gulick's process in 2007 the Board looked in to doing a blanket deed for all the lots in the subdivision but found out that each property must file individually. The benefit for the lot owner is the addition of the 2' 8" to the building envelope. Trustee Goold questioned why the request did not go through Planning and Zoning (P&Z) prior to Council. Mayor Schwieterman said it may have been an oversight, or seemed too simple of an issue for P&Z. Attorney Briscoe said the request was a correction of an incorrect description and he was not sure that it needed P&Z. Discussion ensued regarding the retention of the Town right-of-way, sidewalk width, and setbacks in the subdivision. Trustee King moved to approve the Chavez quit claim deed as presented. Trustees Kleinman and Wissbeck seconded, and the motion passed unanimously.

Colorado Geologic Survey – Area Mapping Update

David Noe, senior geologist with the Colorado School of Mines was present. Mr. Noe heads a program called "State Map" which maps populated areas throughout the state for informational use in multiple situations including land use issues. The mapping is not a topographic survey but is a good tool that identifies the different substrates in different places and tries to explain why the terrain varies from place to place. Mr. Noe has been working in the Paonia area for the past four (4) summers. The process includes contacting private landowners for permission to study on their land, as well as gather information from the landowners about their property. Mr. Noe will be offering an informational presentation at the Paonia Library in October and talked about other functions he performs such as identification of different substrates, fossils, and history of the region Mr. Noe is studying. The mapping files and decoding information for the different categories are available at no cost for download online.

Delta County Library District

Annette Choszcyk, District Director and Anne Murphy, Library Board President for the Delta County Libraries were present. Information regarding the number of libraries in the county, typical patronage, and the different materials the libraries offer was given. Because the library district is a taxing district they are impacted by lower property values. The library will have an issue on the ballot requesting a mill levy increase and requested everyone's support.

John Gavin, Paonia Library Technical Manager was present. Mr. Gavin requested the Towns partnership in a trail program to implement two Wi-Fi hotspots within the town. Mr. Gavin will need a space in the locations of installation to mount an antenna and connect in to the electrical system. Mr. Gavin is hoping to install one (1) unit in the Town Park prior to the Mountain Harvest Festival in late September. The trial will continue until the end of 2013. Discussion regarding the coverage area and technical data continued. Mayor Schwieterman asked what the Towns' portion of cost would be should the trial be successful. The units will cost seven thousand dollars (\$7,000.00) to purchase and the library asked the Town to pay as percentage for the increased bandwidth. The exact amount cannot be estimated until after the trial begins and data can be collected. Trustee Kleinman moved to approve the trial partnership with the Paonia Library. Trustee Goold seconded and the motion passed unanimously.

Chesnik – Civil Action/ CIRSA Update

Attorney Briscoe gave a brief history of the Towns options for collecting funds from the Chesnik embezzlement. The position from Colorado Intergovernmental Risk Sharing Agency (CIRSA), the Towns insurance carrier, the Town is only covered up to one hundred fifty thousand dollars (\$150,000.00). After consulting with expert in insurance law, Attorney Briscoe did not deem it likely that the Town would win a dispute with CIRSA and recover any more than the \$150,000.00. CIRSA has agreed to defer first right to restitution and will provide a sworn statement and proof of loss should

the Town accept the CIRSA decision. Attorney Briscoe informed the Council that during sentencing in the criminal suit against Ms. Chesnik, the judge ordered the County Clerk to manage the collection of restitution. Should this Board choose to proceed with a civil suit, the County Clerk will turn over the collection responsibility to the Town. Attorney Briscoe recommended that the Town not proceed with any civil action against Ms. Chesnik, stating that the complicated process, incarceration of Ms. Chesnik, and the expense of a civil suit would not be profitable to the Town. Attorney Briscoe requested that the Council accept the CIRSA offer to collect the \$150,000.00 less the \$1000.00 deductible. Trustee King moved to execute the sworn statement from CIRSA as presented. Trustee Goold seconded, and the motion passed unanimously.

Marijuana – Designate Local Authority

Mayor Schwieterman gave an overview of the work session held prior to the regular meeting at which some of the variables regarding commercial marijuana were discussed. A copy of the draft medical marijuana ordinance, the letter from the State requesting a designee be appointed, and thirteen (13) letters, all in favor of a moratorium or banning recreational marijuana were included in the packets. Etiquette for the public discussion process was given as well as the time limitation for giving opinions and how polling of those in agreement would be taken. The floor was opened for public discussion at 8:03 p.m. Five (5) people spoke in favor of regulating marijuana cultivation and sales in Town, stating the history of marijuana in town, revenue possibilities, and medical benefits. Twenty-three (23) people spoke against marijuana cultivation and sales in town stating health and safety, negative impacts from non-residents entering town to purchase, loss of tourism, overloaded police force, concerns regarding minors, and financial burdens. One (1) person was unsure and requested possible regulation information on which to base a decision. Council recessed briefly from 9:03 p.m. until 9:08 p.m. with public discussion ending at 9:12p.m. Trustee Kleinman was impressed with the number of people who attended the meeting and gave their opinions, especially when not in the majority. Trustee King moved to include an item at the next regular meeting for a moratorium until the regular election November 2014, and state regulations are available. Trustee Kleinman seconded. Attorney Briscoe addressed a concern that Council came in to the meeting with a decision already made by going over the intent behind the work session. The motion was brought to a vote and passed unanimously.

Additional Business

Mayor's Report: Mayor Schwieterman requested continued patience for the Town office staff. In the last week three (3) requests for proposals (RFP) for Third Street engineering, the campground, and trash services have been completed, and the staff continues to work toward catching up from the staff shortage for the majority of the summer. Mayor Schwieterman and Clerk Peterson will be out of town for the first meeting in October and are working to keep the agenda clear so the meeting may be cancelled.

Public Works: Director Loberg had nothing to report.

Police Report: Chief Leon was unavailable to report

Finance Report: Trustee Wissbeck had nothing to report.

Parks Report: Trustee Goold stated the Parks Committee would coordinate with Director Loberg regarding placement of the Wi-Fi in the Town Park.

Public Safety Report: Trustees Ayers had nothing to report.

Street Report: Trustee King was advised of a group of residents who wished to request permanent street closure on Second Street where the culvert is under repair. Trustee King gave them the short time frame given for the repair to be completed and advised the group to come to Council with the request prior to that deadline.

Water/Sewer Report: Trustee King thanked Clerk Peterson for her efforts in applying for grants for the two-million gallon (2MG) water treatment plant project. The Department of Local Affairs (DOLA) approved a one-million dollar (1,000,000.00) grant request through the Energy Mineral Impact Assistance Program in addition to the thirty-five thousand dollars (\$35,000.00) awarded from the Gunnison Basin Round Table. The Town is also currently under consideration for seven hundred and fifty thousand dollar (\$750,000.00) principle forgiveness loan from the Colorado Water Resources and Power Development Authority (WPA), which is essentially free money to the Town.

Personnel Report: Trustee Wissbeck had nothing to report.

Minutes:

Corrections noted. Trustee Goold moved to accept the amended minutes for July 23, 2013. Trustee Kleinman seconded and the motion passed unanimously. Trustee King moved to approve the minutes for July 29, 2013. Trustee Goold seconded and the motion passed with Trustee Ayers abstaining.

Disbursements:

Trustee Wissbeck moved to pay the bills through August 27, 2013. Trustee Goold seconded, and the motion passed unanimously.

9:25 p.m. Meeting adjourned.

Town Clerk, Barbara Peterson

Mayor, Neal Schwieterman