

**MINUTES**  
**Town of Crested Butte**  
**Regular Town Council Meeting**  
**Monday, October 17, 2016**  
**Council Chambers, Crested Butte Town Hall**

Mayor Michel called the meeting to order at 7:01PM.

Council Members Present: Jim Schmidt, Chris Ladoulis, Roland Mason, and Paul Merck

Staff Present: Town Manager Dara MacDonald and Town Attorney John Belkin

Town Planner Michael Yerman, Town Clerk Lynelle Stanford, Parks and Recreation Director Janna Hansen, Public Works Director Rodney Due, Building and Zoning Director Bob Gillie, and Finance Director Lois Rozman (for part of the meeting)

**APPROVAL OF THE AGENDA**

Ladoulis suggested a change to the agenda. He requested that item numbers 4 and 5 be switched under New Business, in order to discuss Ordinance No. 12 first.

Ladoulis moved and Merck seconded a motion to approve the agenda with the following change of items 4 and 5 to be swapped. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**CONSENT AGENDA**

**1) October 3, 2016 Regular Town Council Meeting Minutes.**

Schmidt moved and Mason seconded a motion to approve the Consent Agenda. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**PUBLIC COMMENT**

Zach Vaughter - 111 ½ Gothic Ave - Director of Coal Creek Watershed Coalition

- The work that caused the Kebler Pass closures was completed.
- There was positive impact to the water quality.
- He offered to provide a more detailed presentation if desired.

**STAFF UPDATES**

Janna Hansen

- Crews were prepping for winter by pulling benches and bike racks.
- The last pavilion rental would be this weekend.
- Summer seasonal employees would be done at the end of next week.
- Gymnastics started today.

- The bike park project was coming along. There were issues with the anchoring system recommended by the manufacturer. She hoped the pump track and skills zones would be ride able this fall.

#### Rodney Due

- His crews were gearing up for winter.
- There were sidewalks he hoped to take care of before the snow.
- Schmidt questioned the snow plan and if there were changes. Due had to discuss with Mason snow removal in alleys. Mason agreed they had to at least determine who was plowing alleys.

#### Michael Yerman

- He recognized Due's crew for their work in helping come \$45K under budget for the DOLA grant (Blocks 79 & 80).
- Reminded the Council of the CDOT meeting at Gunnison County on STIP funding on October 25 at 1PM.

#### Lynelle Stanford

- Bayou in the Butte was relocated, so it was no longer a special event.
- Ballots were mailed on October 17, and the Parish Hall at Queen of All Saints would be the local polling place starting October 31.

#### Dara MacDonald

- The ACLU contacted Town, so the first reading of a loitering ordinance would be on November 7.
- Mentioned a conflict in municipal court in which Carol Viner, with Masters & Viner from Montrose, would act as the prosecutor instead of John Belkin. Belkin clarified the conflict.
- She started to tackle leases, and she would bring a conversation back on how to handle going forward. She expected a negligible impact on the 2017 budget.

### **PUBLIC HEARING**

#### **1) Resolution No. 34, Series 2016 - Resolutions of the Crested Butte Town Council Approving the Continued Operation of Snow Machines for Rubber-Tracked Snow Cat Machines, the Designated Route and the Restrictions of Operations.**

Michel confirmed that proper public notice was given. Stanford explained the proposed route including minor changes. The public hearing was opened. Michel confirmed with Stanford there had been no concerns or comments from the public. The public hearing was closed, and there was no further Council discussion.

Schmidt moved and Ladoulis seconded a motion to approve Resolution No. 34, Series 2016, resolutions of the Crested Butte Town Council approving the continued operation of snow machines for rubber-tracked snow cat machines, the designated route and the

restrictions of operations. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**2) Resolution No. 35, Series 2016 - Resolutions of the Crested Butte Town Council Approving the Designated Route, Restrictions of Operations and the Continued Operation of Nordic Center Snow Cats and Snowmobiles.**

Michel confirmed proper public notice was given and there had been no comments or concerns from the public. The public hearing was opened. There were no comments from the public, and the public hearing was closed. There was no further Council discussion.

Mason moved and Merck seconded a motion to approve Resolution No. 35, Series 2016, resolutions of the Crested Butte Town Council approving the designated route, restrictions of operations and the continued operation of Nordic Center snow cats and snowmobiles. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**NEW BUSINESS**

**1) Presentation by Andrew Hadley on the 4-Way Transit Center and Bathrooms.**

Gillie explained Council expressed interest in enhancing the 4-way transit center and bathroom facilities. He explained there was a committee formed to advise on the design. He stated there were four options. The committee was recommending a larger transit facility with bathrooms in the facility, and the current bathrooms in the Chamber would be redone. They didn't want to contract the existing bathrooms, and expanding them would decrease the Chamber's space. Michel asked if the committee's vote was unanimous, and it was confirmed that it was. Schmidt questioned the prices. Gillie said they didn't spend a lot of time pricing. Michel asked the reason the recommended option was considered the most cost effective. Gillie explained that they didn't have to tear up the Chamber building, and the bus site would be torn up regardless. Ladoulis asked if they considered expanding and creating one contiguous structure. Hadley explained the history of the current design. They looked at extending the existing Chamber to the north, and it wouldn't work well. Michel asked how long the proposed option would serve the needs of the Town, which Hadley said they hadn't discussed.

Michel asked about family bathrooms. Hadley stated they discussed it and even though it would be a smaller facility there was an opportunity for gender-neutral bathrooms. He also said they could renovate the existing bathrooms to make them family bathrooms, but the committee decided that losing fixtures could be viewed as a mistake. Merck brought up the concern of maintenance. Gillie thought Town would take care of the transit center, and the other bathrooms were addressed in the Chamber's lease. Michel asked the Council if they wanted to direct the inclusion of family bathrooms. Schmidt said they could designate the existing bathrooms as family bathrooms, and Hadley confirmed they

could re-do the layout. Mason liked the idea of family bathrooms and the expanded transit center. He recognized three parking spaces would be lost.

Mason acknowledged they had to talk about price. Michel read the financial implications section from the staff report, and he asked if the Council was ready to commit \$400K. Schmidt thought it made a lot of sense, but he was disappointed there were not prices included. He wanted to go ahead. Merck liked Option D, with the incorporation of family bathrooms. Michel stated bathrooms were a good amenity for backcountry use, and one of the first impressions of the community. He supported going forward. Ladoulis wanted comment on the relative cost of options. Hadley confirmed D would be the most expensive. He estimated the costs of other options for comparison. Ladoulis thought it was a luxurious bathroom situation. They needed to be enthusiastic to spend \$400K. Gillie guessed it was a twenty-year solution. Hadley felt they would become known as the bathrooms in Town. Michel identified other benefits in addition to bathrooms, including a place out of the weather to wait for the bus and covered bicycle parking. Schmidt revisited his original idea of using the existing Chamber building. Hadley agreed it would cost substantially less. Ladoulis wondered if that would be a five-year solution. Yerman remind the Council they were planning to pave the lot, and there was cost savings in doing the utility work then.

Merck moved and Mason seconded a motion to authorize the development of plans consistent with Option D and to present the plans to BOZAR. A roll call vote was taken with all voting, "Yes," except Ladoulis voted, "No." **Motion passed.**

## **2) Presentation by Mundus Bishop on the Town Park Playground.**

Hansen thanked Yerman, and she introduced Tina Bishop from Mundus Bishop. Bishop explained the planning process and the components. They were currently in the concept development phase. A Great Outdoors Colorado (GOCO) grant was intended to be part of the funding. She showed a slide depicting the location of the playground, and she explained there would be a one to one replacement of facilities. Schmidt did not like the location of the bathrooms in relation to the ball diamond. Bishop stated they would focus on the play area, but they would bring his concern back to the Center. Bishop recognized the setting was an important component, and they wanted to maintain the views and vistas. She explained further that they learned that fantasy play and slides were important to kids and families. Parents also wanted a buffer and edge to 7<sup>th</sup> Street. She showed the site plan that they came up with from the work session, and she explained the details of the concept plan. There was discussion concerning the area around the pavilion. Bishop explained the plans for trees and the shipwreck play feature with a crow's nest. She described the resilient surface and toddler components. Bishop pointed out the restroom. She explained the plan for the edge of the park on 7<sup>th</sup> Street. Bishop recapped the aspects that were important for the park.

Next, Bishop provided the cost estimates. She explained they used market rates with heavy contingencies. Yerman explained the costs and budget implications related to the GOCO grant. Ladoulis asked if there would be deal fatigue on GOCO's end. Hansen

didn't think they were at that point. Schmidt asked about the parking reduction caused by parallel parking. Yerman explained the 7<sup>th</sup> Street frontage would include more parking, and they wanted it to be least intrusive to the playground. They discussed the bathrooms. Hansen stated there would still be access to the bathrooms at the exterior of the building, but the new location would favor the soccer fields instead of the ball field. Hansen explained the need to renovate the bathrooms and that existing bathrooms would stay until the new ones were opened in the Center. Schmidt was okay with the approval to go forward with the grant. Michel told Staff it was an issue that was identified. They discussed the views, and Ladoulis saw that they were obscuring the existing views. He asked about the building's shadow and if it was considered with the placement of structures. Bishop confirmed the areas had been considered.

Michel asked if anyone from the public wanted to comment.

Elliot Stern - 512 7<sup>th</sup> St #2

- He thought it was obvious everything couldn't fit at Big Mine Park, and they were making the same mistake again.
- He suggested a master plan for the entire park before breaking ground on anything. Hansen explained they went through a public planning process.

**3) Resolution No. 36, Series 2016 - Resolutions of the Crested Butte Town Council Appropriating Matching Funds in an Amount Not to Exceed \$100,000.00 for the Local Park and Outdoor Recreation Grant Application with Great Outdoors Colorado (GOCO) and Authorizing the Town Manager to Execute a the Grant Application in Connection Therewith.**

Merck moved and Schmidt seconded a motion to approve Resolution No. 36, Series 2016. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**4) Ordinance No. 12, Series 2016 - An Ordinance of the Crested Butte Town Council Adding a New Article 6 to Chapter 6 of the Crested Butte Municipal Code to Include Regulations for the Licensing of Short Term Rentals and Making Such Other Attendant Changes to the Code in Related Thereto.**

Gillie reminded the Council of the special meeting that was held on short-term rentals (STRs) and the recommendations from the committee. At the meeting, the Council gave Staff direction to draft an ordinance. The most controversial of the committee's recommendations were caps and the transfer of licenses. They made the decision to bifurcate the issues and to move forward with licensing provisions. Ordinance No. 12 was relative to creating a licensing regime.

Ladoulis wondered if there were any requirements to which B & B's and other lodges were not held. Gillie stated that the licensing of STRs itself was different. Other lodging categories were dealt with via conditional uses through BOZAR. The intent was largely the same with all and that was to get to a level of safety. Gillie said the bar was higher for those that accommodated transient users.

Michel questioned the effective date of the ordinance, which was January 1, 2018. Gillie answered there would be a transition year regardless, and they were out of time this year to get it in place by January 1, 2017. Schmidt described how he could see the timeline of implementation to include time to remedy issues. He didn't want it to be a year from January. Michel summarized that sooner rather than later would be better and to also be realistic. Belkin thought the date was realistic. MacDonald thought it was okay to spread out inspections after the issuance of licenses, and late spring to summer could be possible.

Michel asked Belkin to explain the definitions in the ordinance. He stated they changed the definition of vacation rental type. MacDonald explained that the definitions of vacation rental types came from the committee recommendations. She defined vacation rental unlimited, vacation rental limited, and vacation rental room. Michel confirmed that in the definition of vacation rental limited, "primary residence of the owner" was struck. They discussed the meaning of short-term residential accommodations, and Belkin explained it referred to a timeshare. Gillie stated that fractional ownerships didn't fall within this model.

Michel reviewed the ordinance, section by section:

- Vacation Rentals Allowed
  - Michel asked how they dealt with the zone question and if they needed to change uses within zones. Gillie said they could have to alter Chapter 16. STRs would be carte blanche for residential units throughout Town. MacDonald asked the Council if they wanted to limit licenses in any part of Town. MacDonald said the committee would have limited the zones where it was allowed. Michel explained the Council was wrestling with the existing Code where people were renting out already.
- License Required and Compliance
  - Vacation rentals must comply with the requirements of the Code.
- Application
  - Ladoulis wondered if they should consider a longer licensing period.
- Issuance and Renewal
- Suspension and Revocation
  - An application could be denied, and a license could be suspended or revoked.
- No Transfer
  - MacDonald explained the disallowance of transfers. The new owner would need to come in and apply for a license, and she listed reasons. She confirmed the license would be issued on the calendar year.

- Authority to Impose Conditions
  - Staff needed to be able to call out any obvious mechanical or structural issues in order to get them fixed.
- Lodging and Sales Tax
- BOLT License
  - Mason asked if the BOLT license would be included in the permitting fee or separate. MacDonald stated they were contemplated separately.
- Annual Inspection
  - Gillie explained inspections would be bi-annual, every other year.
- Administration
  - Michel's opined they were empowering a new employee with a lot of work. MacDonald explained they were trying to avoid exhaustive lists in the Code, and they were giving Staff latitude to make decisions. Gillie added they didn't want to amend the Code anytime an issue arose.
- Licensee Duties
- Local Contact
- License Number Display
  - Ladoulis said that rentals were referred to by their addresses, and it would be sufficient if they kept addresses clearly visible.
  - Michel asked why they would create a unique number when they already had one. MacDonald stated that license numbers were useful to track rentals that were being advertised. Gillie further explained the unique number was aimed to determine locations that were not clear on websites. It also allowed neighbors to know whom to call with issues, and it identified which properties were rented.
- Parking Required
  - Gillie said the parking that was approved must be on the site and available.
- Maximum Occupancy
  - Gillie stated the maximum occupancy was related to the building code. Ten would be the cut off before the owner would need to include exit signage and alarms.
- Renter Requirements and Violations
  - Michel read from the ordinance.

Schmidt agreed with Ladoulis on the number displayed section, but he agreed there should be a number used on the websites. Michel cited the example of a building permit that was displayed. Mason thought it made sense to have something visible, and he noticed homes that already had plaques. He wanted to hear more from the public. Under Administration, Merck didn't think the licensing official should be able to make changes. MacDonald explained the logistics. Michel voiced concern that it could lead to the perception of arbitrary rules. MacDonald said it was more about making forms and checklists. Michel read it to mean that the licensing official had tremendous power. Belkin said they could address it. Referring to questions why requirements didn't apply to long-term rentals, Schmidt explained there were different expectations of short-term renters, compared to a long-term renter who chose not to rent a place if they didn't like it.

Michel explained they were potentially setting the ordinance for public hearing, and he opened the discussion to public comment.

Marcus Lock - Attorney from Gunnison - Representing CB Owners Group, which consisted of property owners, business owners, realtors, and property managers. He was not receiving money from an out of state interest.

- He had substantial concerns about the proposed ordinance. Proposed regulation went beyond increasing fees and immediate preservation of health, safety and welfare of constituents.
- Concerning the provision regarding deed restricted units, people who were contributing to housing stock would be precluded.
- Slow down and allow the public to provide comments to Staff for them to filter.

Rita Payne - 213 3<sup>rd</sup> St

- Many towns had STRs, and there was not a special person hired.
- She questioned if the problem was so urgent.
- Told the Council to get it right.

David Leinsdorf - 3 Treasury Hill Rd - Reported his law office to be at 215 Elk Ave

- Suggested the Council dedicate an entire meeting to a public hearing.
- It was premature to move quickly.

Jim Starr - 323 Gothic Ave

- It needed more time but not a year.
- Important to get everyone's input because of the implications for the future of the community.
- It was a mistake not to have vacation rentals unlimited be confined to residents that voted in Town, and it was a mistake to allow in every zone district.
- The Council should approve all rules and regulations, in regards to the licensing official.

Steve Ryan - 75 Escalante

- He attended a conference. It was advised that people did not display plaques or publish addresses because vacation rentals were targeted by thieves.

- He suggested the marshals could have a database available only to Town Staff.
- It was a privacy and possibly a theft issue.

Corey Dwan - 33 Castle Rd in Mt. Crested Butte

- He did not think there should be a cap on STRs, and he commended for not including a cap in the ordinance.
- His other concerns were no transfers and the 12-month period for the permit. He thought it needed to be longer.

Mark Campisano - Chestnut House at 409 Elk Ave

- He had been hacked through advertising, and he didn't want plaques.

Sasa Watt - 271 Gothic Rd

- Insurance had not been talked about yet. She couldn't rent a house to live in and rent out a room through Airbnb because she couldn't get insurance.
- She agreed with the privacy issue.

Keith Payne - 213 3<sup>rd</sup> St

- He advocated for a two year license and two persons per bedroom plus two instead of ten person cap.

Michel asked the Council if there were the votes to put the ordinance on the next agenda. Merck said they needed a lot of time. Ladoulis said that it could wait. Schmidt agreed there was tweaking to be done. He would be happy to let Staff field comments, see the tweaks, and come back again. Belkin thought the discussion should have its own night. Michel summarized there would be a special meeting to continue the first reading of the ordinance on November 14 at 6PM.

Ladoulis moved and Schmidt seconded a motion to continue discussion of Ordinance No. 12 to a date certain being November 14<sup>th</sup> special meeting at 6PM. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

### **5) Council Discussion on Limiting the Number of Short-Term Rentals and Possible Direction to Staff.**

Mason thought it would be difficult to limit STRs, and the market would dictate with what they could potentially have in place. Schmidt stated they were talking about residential areas, and it was appropriate for Council to set restrictions in residential areas. He voiced concerns they were taking away the pleasure of living in Town for the people that lived there. He didn't think much would be gained from putting on limitations, and he was not comfortable with any kind of cap. Merck thought it needed a lot of discussion and time. They needed to look at everything. He didn't think the caps and lack of allowance for transfers were fair. He was not happy with caps. Ladoulis wanted to preserve community, but he feared that it wouldn't be accomplished with a cap. He wasn't sure he could support caps. Michel summarized the Council was not ready to discuss or impose caps on short-term rentals in Crested Butte.

**6) Ordinance No. 13, Series 2016 - An Ordinance of the Crested Butte Town Council Amending Chapter 13, Article 1 of the Crested Butte Municipal Code to Allow Extraterritorial Connections to the Town System-water, as Defined in the Code, Following Approval by the Town Council.**

Yerman provided historical reference of the dealings with Cypress Foothills LP, and he explained it was the first reading of the ordinance. He described the changes to the Code that were needed to include the change in decision making authority and the change to the requirement for annexation for water. Schmidt questioned a section in the ordinance that didn't make sense that allowed the extension of water to a commercial establishment, but it did not allow sewer. Belkin agreed to amend.

Schmidt moved and Merck seconded a motion to set Ordinance No. 13, Series 2016 for public hearing at the November 7 meeting. **Motion passed.**

**LEGAL MATTERS**

Belkin explained that a Council member was having small, petty criminal issues. Since the Council employed him, he couldn't prosecute a client. The judge was in the same situation.

Schmidt questioned the legal costs of the mine situation. Michel asked Belkin to report on numbers at the next meeting.

**COUNCIL REPORTS AND COMMITTEE UPDATES**

Jim Schmidt

- The Housing Committee didn't meet because of lack of a quorum, but he talked to Fulmer. 25 units were rented in Anthracite Place, and 4 others were in the process.
- The housing needs assessment came in, and the County needed 415-420 units across the Valley by 2020, based on employers not having enough people.
- The Creative District solicited grant applications. They received one controversial application that was to paint a light post red in honor of Red Lady Bowl and Mt. Emmons. Yerman stated there was the recommendation from the committee to fund, but it involved public property, which the Council needed to review. The topic was moved to Other Business.

Roland Mason

- There wasn't a RTA meeting this month.
- They would have an upcoming Mountain Express retreat.

**OTHER BUSINESS TO COME BEFORE THE COUNCIL**

Yerman needed direction from the Council on the lamppost proposal. He added that the lamp would have a red light bulb. Michel thought it sounded like a great project that ideally didn't come to Council. Yerman clarified that the use of public property had to come in front of them. The committee's recommendation was to approve the project. Mason was okay with it, and Merck was, too.

### DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, November 7, 2016 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, November 21, 2016 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, December 5, 2016 - 6:00PM Work Session - 7:00PM Regular Council

There would be another budget work session on November 7.

### EXECUTIVE SESSION

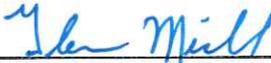
Mason recused himself from Executive Session, and he left the meeting.

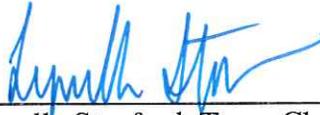
Schmidt moved and Ladoulis seconded a motion to go into Executive Session for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b). A roll call vote was taken with all voting, "Yes," except for Mason, who had recused himself. **Motion passed unanimously.**

The Council went into Executive Session at 10:49PM. Council returned to open meeting at 11:15PM. Mayor Michel made the required announcement before returning to open meeting.

### ADJOURNMENT

Mayor Michel adjourned the meeting at 11:17PM.

  
\_\_\_\_\_  
Glenn Michel, Mayor

  
\_\_\_\_\_  
Lynelle Stanford, Town Clerk (SEAL)

