

Town of Crested Butte
Regular Town Council Meeting
Minutes
Monday, November 4, 2013
Council Chambers, Crested Butte Town Hall

Mayor Huckstep called the meeting to order at 7:00 p.m.

Council members present: Jim Schmidt, David K. Owen, Roland Mason, John Wirsing, Shaun Matuszewicz and Glenn Michel.

Staff present: Todd Crossett, Town Manager; John Belkin, Town Attorney; and Shelley Jansen, Town Clerk.

Staff present for part of the meeting: Lois Rozman, Finance Director; and Bob Gillie, Building and Zoning Director.

APPROVAL OF AGENDA

Add a statement from Todd Crossett in regards to the VCUP application from US Energy after consent agenda.

Remove staff updates.

Add an executive session after Todd Crossett's statement 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).

Remove item 3) Revocable Licensing Agreement Effecting 11x13 Foot Portion of Lot 30, Block 4, Town of Crested, County of Gunnison, under consent agenda.

Owen moved and Schmidt seconded to approve the agenda with the additions and removal items as stated above.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

CONSENT AGENDA

- 1) Approval of October 21, 2013 Minutes.
- 2) Approval of 2014 Town Council Meeting Schedule.

Schmidt moved and Wirsing seconded to approve the consent agenda.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

TOWN MANAGER STATEMENT

Crossett stated that the emergency medical department of Crested Butte was nominated for EMS of the year and was the only volunteer department nominated by the state.

Crested Butte/Mt. Crested Butte and Gunnison will be a part of the USA Pro Challenge in 2014.

On September 13, 2013, US Energy applied for a VCUP (Volunteer Clean Up Plan) and was approved by the state on October 22, 2013, without the Town's knowledge. Today there was a conference call with the Executive Director of CDPHE and various staff from the CDPHE, Town Manager Crossett, Attorney Belkin, Mayor Huckstep, David K. Owen, David Baumgartner, DNR, Representative from the Governor's office, HCCA, Red Lady, and a Staff member from Senator Bennett's office. During the conference call it was decided that the state would table the VCUP application from US Energy. Crossett stated that now we are in a good position to review the application and give input. Crossett stated that the mine they would VCUP is on US Energy property (private property) and the water plant is on federal land. Crossett stated that there has been speculation that the Town was a part of the application process, but that is far from the truth. Crossett stated that the Town needs to independently do an assessment of the VCUP option before moving forward.

PUBLIC COMMENTS

Skip Berkshire stated that he would like to thank the Council for all the hard work. We live in a special place where a lot of good things happen. I am happy to live in a Town that is well managed.

Greg Dyson, Executive Director of the High Country Citizen Alliance stated that earlier today he sent a letter addressed to Governor Hickenlooper discussing the VCUP process (letter is a part of the record). Dyson stated that HCCA and the Town have been partners for decades and that the application that was submitted is fundamentally flawed. Dyson stated that HCCA will continue to work diligently to make sure the VCUP application is right for the Town. Dyson stated that HCCA would like to re-establish the good relations with the Council moving forward.

Jim Starr stated that he appreciates the summary from Crossett and appreciates that the VCUP process has been taken off. Starr asked the council the following questions: when did the Council start talking about the possibility of a VCUP, who first suggested the VCUP, what was done on behalf of the Town or Council to have ever led to this impression that the Town supported the plan?

Steve Glaser, President of the Coal Creek Water Coalition, requested that the Coalition be a part of these discussions. Glaser also recommends reaching out to the EPA as the state has to work with them in the cleanup. Glaser stated that the Coalition has expertise that could help in this process, but not what the Town is going to need to assess the VCUP. Glaser thanked everyone for the work that has been done at this point.

Arvin Ramgoolam applauds everyone for working hard and we need to work with each other to be transparent to include all parties in the conversation. Ramgoolam stated that Wirsing is a rock star and appreciates everything he has done.

Glo Cunningham expressed her appreciation to John Wirsing and his hard work on the Council. Cunningham thanked everyone for what they have done and she is pleased to know that all of this is out in the open.

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).

Council went into executive session at 7:30 p.m. and ended at 7:53 p.m. Mason, Owen Matuszewicz, Huckstep, Wirsing, Michel, Schmidt, Manager Crossett and Attorney Belkin attended the executive session. No action was taken.

US ENERGY

Mayor Huckstep addressed the community by addressing the three questions asked by Starr.

1. When did the Council begin discussing the VCUP process?

Huckstep stated around June of 2013.

2. Who discussed it?

Crossett, Belkin and Mayor Huckstep.

3. What was done on behalf of the Town?

Mayor Huckstep stated that other than listening there was no action on behalf of the Town.

Mayor Huckstep stated that Council is not sure this is the technical solution, but we do know that the VCUP application was not the right process. Mayor Huckstep opened it up to the rest of the Council.

Schmidt stated that he first heard of this on Friday afternoon and he was livid that US Energy did not let the Town know that they were going to file it with the state. Schmidt stated that there was confusion as to why the state did not inform the Town and the state acted quite swiftly today by tabling the application. Schmidt also stated that the Town has made it quite clear that Red Lady and HCCA need to be a part of the process including a 3rd party study of the area.

Owen stated that he found out about the VCUP application on Friday afternoon. Owen wanted to make sure the process was clear and elected officials should not be part of the negotiating team. Owen stated that the process should include HCCA, Red Lady, Coal Creek Watershed Coalition, EPA and the Community at all times. Owen asked the Council if they agree with the above process and Matuszewicz stated that he agrees.

Wirsing stated that he likes it that someone from the Council is at the table. Wirsing also stated that he didn't think there is anything that we could have done to prevent this situation.

Mason stated that he agrees that it is important that a Council member be a part of the negotiations.

Mayor Huckstep stated that the Town and the Council had a challenging time in the last year. Mayor Huckstep stated that he has faith in Manager Crossett's skills.

Schmidt stated that he also agrees that a Council member should be a part of the conversations with US Energy and keep communications open.

Owen stated that it was a mistake that the conversation was done alone and did not include HCCA and Red lady. Owen stated that the Council governs as a body and it compromises the Council by having a Council member at the table.

Dan Jones stated that there is a quasi-judicial policy and by having a Council member at the table does it compromise the Town? Jones asked if the Council was negotiating in good faith and Mayor Huckstep stated that there were no negotiations, just conversations. Jones asked if there was an element of suspicion with US Energy and Council stated that it depends on the Council person.

Schmidt stated that corporations have one thing in mind to make the shareholders rich.

Crossett stated that he would describe the conversations as brainstorming sessions, not negotiations. Crossett stated that the Town was not compromised.

Sue Navy asked if anyone has talked to US Energy since Friday. Mayor Huckstep stated that the Town has not talked to US Energy since Friday and a clear message has been sent by suspending the VCUP application.

Tyler Lucas stated that it is disturbing that no one remembers when the Town and US Energy were considering a VCUP option. Lucas asked if there are other options that have been discussed and is the VCUP option still out there.

Attorney Belkin stated that another option is a land exchange, but that has not gone forward.

Crossett stated that there are plenty of holes in the current VCUP plan. Crossett stated that there would have to be a process that would have to be done, in order to create a VCUP plan.

Mayor Huckstep stated that there is another player at the table that is not here tonight and that is the County through their 1041 process.

Laura Yale asked why it was US Energy and the Town that were in conversations with US Energy.

Attorney Belkin stated that US Energy in March of 2012 requested to not communicate with HCCA or Red Lady anymore.

Laura Mario stated that there seems to be conversations with US Energy and who was a part of those discussions. Crossett stated that it was Attorney Belkin, Mayor Huckstep and Crossett that were a part of the meetings with US Energy. Since Crossett began at the Town in June of 2013.

Jim Starr recommends that the Town should hire a mediator.

Mayor Huckstep stated that he agrees with Starr in hiring a mediator. Mayor Huckstep stated there are financial problems to retain a mediator and does not know what the needs of a mediator may be at this point.

4) Resolution No. 10, Series 2013-A Resolution Adopting the Budget and Appropriating Sums of Money for the Town of Crested Butte, Colorado for the Fiscal year Beginning the First Day of January 2014, and Ending the Last Day of December 2014, Estimating the Amount of Money Necessary to be Derived from Revenue Sources, and Setting Forth the Total Estimated Expenditures for Each Fund.

Mayor Huckstep asked if proper public notice has been given. Town Clerk Jansen confirmed that public notice has been given.

Mayor Huckstep opened the public hearing.

No public comments.

Mayor Huckstep closed the public hearing.

Owen moved and Mason seconded to approve Resolution No. 10, Series 2013.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

5) Ordinance No. 21, Series 2013-An Ordinance Adopting Changes and Additions to the 2013 Budget and Appropriations Relative to the Affordable Housing and Sales Tax Fund.

Mayor Huckstep asked if proper public notice has been given. Town Clerk Jansen confirmed that public notice has been given.

Mayor Huckstep opened the public hearing.

No public comments.

Mayor Huckstep closed the public hearing.

Schmidt moved and Matuszewicz seconded to approve Ordinance No. 21, Series 2013.

A roll call vote was taken with Mason, Owen, Matuszewicz, Huckstep, Michel and Schmidt voting "Yes" and Wirsing voting "No." **Motion Passed.**

6) Ordinance No. 22, Series 2013-An Ordinance Amending Chapter 6-2 of the Crested Butte Municipal Code Providing for a Temporary Reduction to Certain Portions of the Business and Occupation Licensing Tax for Fiscal and Calendar Year of 2014; and Providing the Automatic Repeal Thereof Effective on the First Day of January 2015.

Mayor Huckstep asked if proper public notice has been given. Town Clerk Jansen confirmed that public notice has been given.

Mayor Huckstep opened the public hearing.

No public comments.

Mayor Huckstep closed the public hearing.

Wirsing moved and Owen seconded to approve Ordinance No. 22, Series 2013.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

NEW BUSINESS

1) Approval of the 2013-2014 Snow and Ice Control Operations Plan.

Owen stated that he dislikes the Snow/Ice snow banks on the north side of Elk Avenue with the melting creating ice and potential hazards.

Matuszewicz stated that he will not vote for the Snow/Ice plan due to cutting down the snow banks.

Wirsing moved and Mason seconded to approve the 2013-2014 Snow and ice Control Operations Plan.

A roll call vote was taken with Mason, Huckstep, Wirsing, Michel and Schmidt voting "Yes" and Owen and Matuszewicz voting "No." **Motion Passed.**

2) Resolution No. 11, Series 2013-A Resolution Adopting Certain Fees and Charges for the Fiscal Year 2014.

Wirsing moved and Mason seconded to approve Resolution No. 11, Series 2013.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

LEGAL MATTERS

Attorney Belkin wanted to thank the Council members and enjoys working with everyone.

COUNCIL REPORTS AND COMMITTEE UPDATES

Michel-

- At the Mt. Express meeting they discussed running an express bus from the 4-way to the Mountaineer Square Bus stop every 10 minutes from mid-June thru the summer to help shuttle bikes and visitors back up to the Mt. Crested Butte.

Wirsing-

- Went to his first BOZAR meeting last week about the Affordable Housing project and he was extremely disappointed. There were no concerns brought forward from the Council at the BOZAR meeting. Wirsing stated that he lost faith in the BOZAR process. Wirsing isn't against the project, but was hoping for a better conversation at the BOZAR meeting.

Mason-

- Tuck is retiring from driving for the Mt. Express after 34 years.

Owen-

- Gunnison Valley Housing Foundation has a meeting on Wednesday and it is unclear of how the Government shutdown will affect the land trade. Karl came to the meeting to update on the Affordable Housing project and Owen stated that he recused himself.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Schmidt asked what the route was for the Pro Challenge. Mayor Huckstep stated that it has not been announced.

Dan Jones asked where the mineral rights fit into all of this? Attorney Belkin stated that any deal with US Energy would have to include the withdrawal of mineral rights. So this was on the table.

Mayor Huckstep stated that the Council hopes that all the hard work that was done with the Attorney has helped.

PUBLIC HEARING

1) Resolution No. 12, Series 2013-A Resolution Approving the Continued Operation of Rubber Tracked Snow Cat Machine, the Restrictions of Operation and the Designated Route.

Mayor Huckstep asked if proper public notice has been given. Town Clerk Jansen confirmed that public notice has been given.

Mayor Huckstep opened the public hearing.

No public comments.

Mayor Huckstep closed the public hearing.

Wirsing moved and Mason seconded to pass Resolution No. 12, Series 2013.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

2) Resolution No. 9, Series 2013-A Resolution to Adopt the Mill Levy for the Town of Crested Butte, Colorado for the fiscal year 2014, Beginning the First Day of January 2014 and ending the Last Day of December 2014.

Mayor Huckstep asked if proper public notice has been given. Town Clerk Jansen confirmed that public notice has been given.

Mayor Huckstep opened the public hearing.

No public comments.

Mayor Huckstep closed the public hearing.

Schmidt moved and Wirsing seconded to approve Resolution No. 9, Series 2013.

A roll call vote was taken with all voting "Yes." **Motion Passed.**

3) Ordinance No. 20, Series 2013-An Ordinance Amending Section 13-1-150 of the Crested Butte Municipal Code to Increase the Monthly Service Charge for Sewer Service to \$32.00 Per Month Per EQR.

Mayor Huckstep asked if proper public notice has been given. Town Clerk Jansen confirmed that public notice has been given.

Mayor Huckstep opened the public hearing.

No public comments.

Mayor Huckstep closed the public hearing.

Wirsing moved and Schmidt seconded to approve Ordinance No. 20, Series 2013.

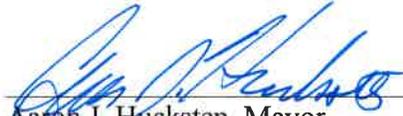
A roll call vote was taken with all voting "Yes." **Motion Passed.**

**DISCUSSION TO SCHEDULE FUTURE WORK SESSION TOPICS
COUNCIL MEETING SCHEDULE**

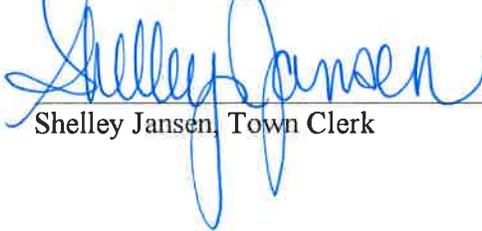
Monday, November 18, 2013-6 p.m. Work Session-7 p.m. Regular Council
Monday, December 2, 2013-6 p.m. Work Session-7 p.m. Regular Council
Monday, December 16, 2013-6 p.m. Work Session-7 p.m. Regular Council

ADJOURNMENT

Mayor Huckstep adjourned the meeting at 9:15 p.m.



Aaron J. Huckstep, Mayor



Shelley Jansen, Town Clerk

(SEAL)

