

**Town of Crested Butte  
Regular Town Council Meeting  
Minutes  
Monday, September 16, 2013  
Council Chambers, Crested Butte Town Hall**

Mayor Huckstep called the meeting to order at 7:01 p.m.

Council members present: Jim Schmidt, Shaun Matuszewicz, David K. Owen, Roland Mason (arrived at 7:23 p.m.), John Wirsing, and Glenn Michel.

Staff present: Todd Crossett, Town Manager; John Belkin, Town Attorney; Bob Gillie, Building and Zoning Director and Shelley Jansen, Town Clerk.

Staff present for part of the meeting: Lois Rozman, Finance Director; Tom Martin, Marshall; Jake Jones, Parks and Recreation Director.

**APPROVAL OF AGENDA**

Remove item 2) Revocable License Agreement for Nordic Center Fueling Shed and remove item 1) Discussion and Possible Resolution No. 7, Series 2013 to Adopt the Gunnison County Natural Hazard Mitigation Plan, Scott Morrill, Gunnison County Emergency Management under new business.

Matuszewicz moved and Wirsing seconded to approve the agenda with the above corrections to the agenda.

A roll call vote was taken with all, but Mason (late) and Owen (late) voting "Yes." **Motion Passed.**

**CONSENT AGENDA**

1) Approval of Minutes September 3, 2013.

2) Appoint Margot Levy to the Housing Authority Board.

3) Memorandum of Understanding Between the Town of Crested Butte and the Town of Crested Butte Municipal Court Judge, Ben Eden.

Michel moved and Wirsing seconded to approve the consent agenda.

A roll call vote was taken with all, but Mason (late) voting "Yes." **Motion Passed.**

**PUBLIC COMMENTS**

Sue Navy, representative on the Gunnison Valley Land Preservation Board asked the council to link the Town website to the new Gunnison Valley Land Preservation Board Gunnison County website. Council approved.

**STAFF UPDATES**

Rodney Due-

- The storm water ditch project will be completed by November 8<sup>th</sup>
- McCormick Ditch sewer extension project will be tied in the spring.
- Repairing bricks on Elk Avenue

- Lost 30 street highway bridges, 20 bridges need major repair and 20 bridges they still couldn't get to due to flooding on the Front Range. C-Dot said it was the worst in the last 100 years.
- Colorado Water Plan-Torie will be coming in and looking at adopting a resolution to endorse the West Slope Principles. Torie will be presenting at the October 7<sup>th</sup> meeting.
- Pilot project for bio-solids composting will begin January 2014.
- Head gate project will begin October 7<sup>th</sup> and Due is still putting together donations.
- Colorado Oil and Gas Conference in Glenwood Springs next week.

Todd Crossett-

- The County will have a Public Hearing in regards to Scarp Ridge on September 20, 2013.
- Snowplowing costs will be \$200 per tow this winter and the Town is working on getting the word out to the visitors and community.

Shelley Jansen-

- Kathy Napoli will be Crested Butte Deputy Clerk and will begin on Monday, September 23<sup>rd</sup>.

Tom Martin-

- Vinotok is this weekend and the 100 block of Elk will be closed on Friday for Community Dinner and Saturday there will be a rolling closure. The event has been well organized by Molly Murfee.

Jake Jones-

- Mike Leonard was awarded the lumber bid for the trail project on 8<sup>th</sup> street.

## **PUBLIC HEARING**

1) Transfer of Beer and Wine License from Paradise Café to Coal Creek Bar & Grill.

Mayor Huckstep opened the public hearing.

Schmidt thanked Lee Dickelman for all of his years of service.

No public comments

Mayor Huckstep closed the public hearing.

Wirsing moved and Schmidt seconded to approve the transfer of beer and wine license from Paradise Café to Coal Creek Bar & Grill beginning November 1, 2013.

A roll call vote was taken with all, but Mason (late) voting "Yes." **Motion Passed.**

2) Ordinance No. 18, Series 2013- An Ordinance Accepting the Deed of Conservation Easement from the Crested Butte Land Trust Regarding the Real Property Legally Described as Township 13 South, Range 86 West, 6th P.M., Section 20: SE1/4NE1/4 and Section 21: N1/2SW1/4NW1/4, NW1/4NW14, County of Gunnison, State of Colorado.

Mayor Huckstep opened the public hearing.

Jones stated that Land Trust Committee made some minor changes. Belkin and Jones are okay with the changes.

No public comments

Mayor Huckstep closed the public hearing

Schmidt moved and Wirsing seconded to approve Ordinance No. 18, Series 2013.  
A roll call vote was taken with all, but Mason (late) voting "Yes." **Motion Passed.**

3) Ordinance No. 19, Series 2013- An Ordinance Amending Chapter 6, Article 5 of the Crested Butte Municipal Code to Include Regulations for the Permitting of New Businesses that Sell, Manufacture and Test Retail Marijuana and Marijuana Products.

Mayor Huckstep re-opened the continued public hearing.

Mayor Huckstep announced the appreciation for a good public turnout.  
Wirsing stated that he is not in favor of expanding at all.

Jennifer Hartman, Business owner in Crested Butte stated that after going through all the information she would like to express my objections. Hartman stated No to retail and cultivation. Hartman asked the question of who will be enforcing the regulation of advertising on displays and packaging. Hartman also asked if the Town would allow genetically engineered marijuana, who will enforce security, disposal, storage, taxing and where will it be allowed. Due to time, Hartman was not able to say everything she wrote down so Hartman's written statement will be attached to the e-packet for the record.

Gabi Desmaris read the letter from the CB School and Accountability Committee to the Council. Council received an electronic copy of the letter this afternoon. The letter is a part of the e-packet record.

Sally Johnson, President of the PTA and member of the CBCS Accountability Committee. Johnson read a letter from the PTA to the Council and the PTA requested the Council to take time in making the important decision. The National Institute of Drug Abuse-Compromises the ability to do complex tasks, Marijuana effects memory and the Town should address the need for funding for law enforcement and drug education for the kids. Please put a limit on edibles and anything that affects children. Requests to post-pone the vote until you have all the information.

Jason E. Worf, Director of Colorado Springs Medical Cannabis Council. Worf represents one of the current dispensaries in Town, stated that the Town should take into account the current users, how challenging it will be if the Town rezones and please take into consideration dual licensing.

Harvey Castro has been in Crested Butte for 20 years and owner of a condo at 310 Belleview and a commercial business at 427 Belleview. Castro stated the Pew Research Center phone survey that was done over the weekend had a response rate of 10%, the survey might be illegal and they did not disclose who was doing the survey. Castro also stated that Marijuana is an adult issue and regulating with kids is a parental issue. The c-zone is only from 3<sup>rd</sup>-4<sup>th</sup> St. and if you add more it will change Belleview.

Scott Howard, Elk Avenue resident stated that residents paid for the survey and there was nothing illegal about the survey. Howard stated that we hear a lot about 88% of Crested Butte residents that voted for Amendment 64 in the 2011 election. The phone survey states that the

Council should slow down on making this difficult decision. The results of the phone survey are a part of the permanent record.

Parker McCloud-Crested Butte Wellness Center did not receive a phone call survey. McCloud encourages Council to move forward on the retail front.

Amber Knight McCloud-Manages a high end retail boutique on Elk Avenue. Many guests who come into her retail store ask about where to purchase marijuana. McCloud also receives phone calls from guests outside the state asking how to purchase marijuana. McCloud encourages Council to move forward on the retail front.

David Nillcin, ACME Healing Center, and one of his biggest concerns that he heard is keeping it out of children's hands. ACME wants to be supportive in keeping marijuana out of the hands of children. ACME is in Ridgeway, Durango and Crested Butte and we want to be responsible business owners.

Edie Gibson stated that the issue that is not being talked about is the number of allowable permits. Currently, we have 3 medical marijuana establishments, but we could have up to 5. Gibson stated that she is not in agreement with any marijuana in Crested Butte and urges the Council to slow down.

Mike Jachowski, Owner of Sea Level Spa Oxygen Bar, stated that he has rich ladies that come into the establishment for oxygen and they ask where they can get a joint. Jachowski stated that there are over 30 liquor serving establishments in one small block of Elk Avenue. Jachowski said that he sees that as excessive, not the 10 marijuana establishments. Jachowski stated that if you go home and have a beer or a glass of wine and discuss about the situation that is hypocrisy, as it is all a drug.

Josh Kappel, Attorney at Law for an establishment in Town and a part of the drafting committee selected by the state for the rule set for Amendment 64. The State went through a good process setting up regulations for Amendment 64. In the state regulations they have child proof packaging, prohibition on advertising to minors, testing requirements, edibles can not be over 100 mg of THC, labeling and sanitation requirements. Kappel also stated that the state is hiring 55 people to help with Marijuana liquor enforcement.

Ross Wagner-lived in the 60's and we have come a long way in the state of Colorado. Don't cave in on the minority pressure. Wagner stated that it will help tourism and help the economy. Wagner stated to the council to hang tuff.

Gabi Prochaska encourages the Town to go slowly. My concern is that we are going straight from prohibition to the ground running. Prochaska asked the Council what is the long term direction in mitigating those costs?

Jim Starr encourages the Council to make a decision tonight and that it is an important issue. It is time to get this issue from under the rug. People need to recognize the use of marijuana is for

responsible adults. Starr asked the Council to decrease the number of retail establishments down to 3 or 4.

Jennifer Ryan stated at least 50 second homeowners have submitted numerous e-mail correspondents. All e-mails are on the record for the final e-packet.

Nancy Reimer, owner of the Rocky Mountain Chocolate Factory. Reimer stated that Marijuana is not accepted by a lot of people and it is concerning that we are considering selling marijuana on Elk Avenue. Reimer asked the council if Crested Butte wants to be known for that and the customer base would have a hard time coming to Crested Butte.

Mayor Huckstep took a 5 minute break.

Peter Maxwell, Owner of Maxwell Steakhouse would like to reiterate the conversation about 2 or 3 years ago with Medical Marijuana. Maxwell stated that he would caution the Council of the effects that will have on the visitors to our valley from the places that do not agree with consumption of marijuana. Maxwell does not agree for it to be on Elk Avenue and asked the Council what it says to the tourist who spends their vacations here.

Monica Mesa, Owner of Yoga for the Peaceful. Mesa congratulated everyone who showed up tonight and stated that in her world we get high by doing yoga. Mesa stated that it is important to note that marijuana is a sacred herb and all the regulations can be put in place to protect it from our youth. Mesa asked the Council to make their decision based on growth, not fear.

John Simmons is a 2<sup>nd</sup> homeowner and is against it on Elk Avenue. Simmons stated that his friends from Texas have been calling, and e-mailing him in the last 24 hours to ask him to come to this meeting tonight. Simmons also stated that Texas is a red state.

Phil Tunkey is a 2<sup>nd</sup> homeowner and a past Criminal Attorney. Tunkey recommends go in moderation and let the market decide what to do. Tunkey also stated that he has a lot of friends in Texas

Dan Marshall, Executive Director of the Chamber of Commerce. The Chamber sent out a survey to 600 plus members on Friday until noon today. About 297 gave information and they were asked 4 questions. 1) Do you think it is appropriate to allow the retail sales on marijuana on elk Avenue west of Third St.? 2) Do you believe it is appropriate to use the pot leaf symbol on exterior signage of retail marijuana businesses in the Town of Crested Butte? 3) Assuming the sale of marijuana in retail locations is permitted on Elk Avenue-How late should these stores be open? 4) Do you have any additional comments? Results 1) 42.9% Yes/53.2% No/4.1% Not Sure 2) 35% Yes/54.8% No/11.4% Not Sure 3) 42.4% 8 p.m./18.8% 10:00 p.m. 4) Comments-should be treated as liquor stores, revenue tax dollars, many believe it will hurt tourism, detour second homeowners and guests; integrity of other businesses would suffer and should not be on Elk Avenue. Other comments will be a part of the e-packet record.

John Penn from Owner of Tobacconist has had about 1,000 tourists ask where to get marijuana. Penn worries about the impact with the change from being a ski bum to a family community. Penn also worries about what this could do to his business knowing that these establishments can sell paraphernalia and the Tobacconist only made \$13,000 last year.

Alan Hadley, owner of a business on Belleview. Hadley's neighbor is a dispensary and they can be good responsible neighbors and can be done effectively. Hadley's clientele is high end and society is amazingly accepting. Hadley is good with the 100 block of Elk. Hadley stated that he doesn't see a lot of negative behaviors from marijuana, but he sees a lot of negative behaviors from alcohol. Hadley is all for it for the blocks west of the 300 block.

Karen Carol requested to keep retail and medical stores off of Elk and the commercial zones. Carol asked the Council to start small and be smart and it is harder to draw back once you have made a decision.

Matthew Kuehlhorn, Director of GCSAPP shared an e-mail to the Council today with research links to it. This is a part of the record. Partnership of Drug Free America stats stated that parents who are marijuana smokers realize that marijuana is not healthy for growing brains. Kuehlhorn stated stats with the environment and retail stores. Kuehlhorn stated that from the GCSAP end it is important that we support are parents and children and that it is crucial to consider that there are a lot of unknowns. Kuehlhorn stated that IQ points are dropped for consistent users.

Sarah Wynes, Family Law Attorney in the valley and represents juvenile delinquents. Wynes stated that the children talk about when they get bored they get into trouble. Wynes stated that the kids hang out on Elk Avenue and they have so few places to hang out, why put it in an area where they hang out?

Lucy Zavala, lives on Elk Avenue and would NOT like to see retail marijuana on Elk. Medical and Retail Marijuana establishments are not allowed to have bank accounts or insurance, due to the Federal law. Zavala stated that we should go slowly and do it right.

Harvey Castro stated that if we waited to answer all the questions it wouldn't happen. Castro asked the Council to go walk on Belleview and stated that you don't have any place to stuff this thing. Castro asked the Council to not screw over the residents on Belleview.

Nancy Reimer stated that Elk Avenue is where our teens hang out.

Steve Raines asked why the 5 current medical marijuana establishments can't be dual permitted. Raines asked the Council to reduce the number of permits.

Ken Buck just moved here in May from Austin, TX and understands that Colorado voted yes and respects it. Buck is not for it being on Elk Avenue with his 3 children. Buck stated that the School has grown 15% and what is the economic impact of these families that moved into town. Buck asked if families would leave if retail marijuana was on Elk Avenue.

Glo Cunningham asked a question if the Town doesn't do something before October 1<sup>st</sup> will the State control what we do. Belkin stated that we are protected with a moratorium. Belkin also stated that the State will be required to issue the licensing before they apply to the Town.

Mayor Huckstep closed the public hearing.

Mayor Huckstep reviewed the timeframe; an existing medical marijuana establishment can apply to the state for a retail license beginning October 1, 2013 and begin on January 2014. New members who are available to apply for retail license beginning in July 2014.

Council agreed to continue to allow retail and medical operations in the c-zone.

Schmidt stated that there seems to be a lot of fear with medical marijuana establishments and they still come. Schmidt works in the tourism business and has never heard that tourists say they will never come here again. Schmidt is willing to not put these on Elk Avenue, but we should allow it in the B2 zone.

Owen was originally opening this up to all zones and agrees with Harvey Castro's point of not keeping it in the C-Zone only. Owen stated that he supports the B2 zone, and the 100 block of Elk. Owen also talked to some young adults and others in the community. Owen stated that the kids in this Town are exposed to marijuana regardless. Owen stated that we should bring the drugs to the light of day and this is a legal adult activity.

Matusewicz stated that many people in support of this are not able to do it publicly. Matusewicz stated that ACME and Crested Butte Wellness Center are planning on doing a dual license and the state has regulations in place to regulate against advertising in the windows, in regards to Elk Avenue. Matusewicz is in favor to expand all zones.

Michel asked the Council if they would be willing to allow 6 licenses knowing that all 3 current medical will become dual. Matusewicz said no. Schmidt also believes in the free market.

Matusewicz stated that the heavy lifting is due to the zones.

Discussion ensued on the potential zones, due to set backs. HOA's can also prohibit tenants from being medical marijuana establishments.

Michel would like to remain in the c-zone and would be willing to go to the B2 and not to B4 or B1.

Wirsing stated that it is a big mistake to put it on Elk and go with what we have. Wirsing stated that the Town always has time to expand, but would like to keep it in the C-Zone.

Mason stated that he is okay with B1, B2, and C-zone.

Mayor Huckstep-yes to c-zone and B2, no to B1 or B4 zone.

Matuszewicz is more favorable of B4

Council agreed to put establishments at C and B2 Zone

Council agreed to allow a Max of 5 shops total for Town Retail/Medical Marijuana Retail-5

Council began to discuss the time frame for retail establishments.

Matuszewicz asked about why the Town is penalizing the marijuana establishments to be sanctioned with early closing hours even though a liquor establishment can be open later.

Council agreed on 8 p.m. for closure.

Council discussed advertising and concerned with appealing to minors.

On page 17 of the ordinance strike marijuana medical it is a duplicate.

Council agrees with the current advertisement modification.

Mayor Huckstep stated that we should look into setting a tax for educational and intervention purposes. Schmidt and Michel agreed. Council is directing staff to research a tax or fee that can be implemented for educational and intervention purposes.

Mayor Huckstep asked the Council if they are okay with opening the Medical Marijuana on October 1, 2013. Belkin is going to research the trigger date for Medical Marijuana establishments to be grandfathered in to be retail. Currently, you can not do a Medical and expect to be grandfathered in the retail.

Council agreed on the following:

- Allowing for sales in the C & B2 Zone
- Up to 5 Medical and Retail Marijuana
- Hours of operation 9-8 p.m.
- Incorporate the redline in the ordinance and take out marijuana medical on pg. 17 of the advertising ordinance.

Schmidt moved and Owen seconded to approve Ordinance 19, Series 2013, An Ordinance Amending Chapter 6, Article 5 of the Crested Butte Municipal Code to Include Regulations for the Permitting of New Businesses that Sell, Manufacture and Test Retail Marijuana and Marijuana Products with the above modifications.

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

## **NEW BUSINESS**

1) Discussion and Possible Action Regarding Affordable Housing Project.

Corrections to the staff report-45 parking spaces will be needed not 48. On page 3, the Housing Authorities have no problem with carrying the deed until perpetuity.

Michel and Wirsing stated that by allocating these funds we are no way saying yes to the whole project. BOZAR will need to review and it may not pass BOZAR

Discussion of zoning changes that will need to be addressed-5 T lots and rezoning B lots-the rezoning will allow the project to be bigger. Up to floor area ratio (FAR) max 2,750 more square footage, but must offer amenities.

Schmidt is concerned about parking and snow storage. Schmidt likes the project and does not have a problem with the \$65,000. Schmidt stated that the front part will be commercial and not a part of this development.

Michel asked about stack parking (one behind the other). Coburn agreed that it was in the tool box.

Wirsing stated that there are major obstacles with this project and concerned by putting forward a commitment.

Mayor Huckstep stated that this will be the first project with a collaborative approach with Mt. Crested Butte, Gunnison County and City of Gunnison.

Matuszewicz stated that we are all proponents of the project and BOZAR will review the design. Matuszewicz asked if the Town is putting in pre-development fees is that normal? Karl Fulmer, Director of the Housing Authority stated the Housing Authority does not have development funds and no it is not typical. Fulmer stated that it does happen in areas that have high costs for property. Matuszewicz also stated that by allocating \$65,000 will BOZAR see this as being passed and will they continue to do their due diligence? Belkin stated that it is legal, but it may be awkward for BOZAR.

Paula Swanson, County Commissioner stated that after listening to some of the concerns of going down this path before BOZAR reviews, what about voting to approve the allocation with \$35,000 payable up front and the rest offered on December 15<sup>th</sup> after BOZAR pre-reviews. The Town stated that part of the BOZAR process is a public review and that won't happen until December 2014.

Matuszewicz asked Fulmer and Coburn why don't some of these entities that are going to profit from this project submit funds. Fulmer stated that there is a lot of sweat equity and financial equity involved with this project. Matuszewicz asked if the Housing Authority will be asking for more funds. Fulmer stated that the Housing Authority will not be asking for more funds.

Matuszewicz asked about the T-zone and what are the requirements? Gillie stated that he will have to further discuss with Fitzgerald. Matuszewicz stated that he would like more time.

Owen is in support of this program. Owen is impressed on the level of expertise of the team and believes that they will be successful and stated it is worth the risk.

Mason feels like it is early to commit \$65,000 without public review. Mason stated that he does feel if Council puts \$65,000 towards this project that BOZAR won't be as effective.

Michel stated that BOZAR will do there job and they have no problem saying no.

Mayor Huckstep asked if the decision can wait until October 7<sup>th</sup>.

Fulmer stated that he would rather wait until October 7<sup>th</sup> then have a no vote.

Coburn stated that delaying a month is significant and not sure what would be different in a month.

Mason stated that he would like to get a little more input from the people/businesses that are living in the area True Value, Center for the Arts and other businesses in the area.

Coburn stated that the design given to the Council is just a concept and it is difficult to share with neighbors. Coburn stated that BOZAR will also go through this process.

Swanson asked the Council if they are willing to join the County, City of Gunnison and Mt. Crested Butte to put forward an affordable housing project that has been needed for 20 years.

Mayor Huckstep is in agreement with allocating \$65,000.

Michel moved and Owen seconded to approve the allocation of \$65,000 for pre-development fees for the affordable housing project.

A roll call vote was taken and Owen, Huckstep, Michel and Schmidt voted yes with Mason, Matuszewicz and Wising voting no. **Motion Passed.**

2) Award of Town Hall Boiler Retrofit 2013 Contract.

Schmidt moved and Wirsing seconded to award the Town Hall Boiler Retrofit 2013 contract to Timberline Mechanical not to exceed \$55,000.

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

## **LEGAL MATTERS**

Nothing

## **COUNCIL REPORTS AND COMMITTEE UPDATES**

Wirsing-

- TA is bringing web hosting in house and will bring in a professional marketing company. TA is attending the Chicago travel show with CBMR.
- Chamber meeting is in 8 hours and the Beer and Chili cook-off was highly successful.

Schmidt-

- Cemetery Committee meeting at 8:30 a.m. on Wednesday, and Weed Pulling Day on Saturday, September 28, 2013 from 9-2 p.m.
- Mt. Bike Hall of Fame is leaving Town and would like to have a reception for Don and Kay. Schmidt would also like to do a proclamation. Council agreed.

Mason-

- RTA meeting was introduced to Rick Lambert, Airport Manager to discuss de-icing issues. They are going to try a solid form of de-icing and see how it works.
- Mountain Express meeting-Mary Evans Kasala has filled the board.

Owen-

- The Housing Authority usually has a meeting the 1<sup>st</sup> Wednesday of the month, but there are conflicts with the meeting in October. Buckhorn ranch is approaching a settlement to have a project be affordable housing. Moving forward with all affordable housing Deeds being consistent across the valley.

Huckstep-

- Open Space Alliance was here and they loved Crested Butte.

**OTHER BUSINESS TO COME BEFORE THE COUNCIL**

None

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

Wednesday, September 18, 2013-6 p.m. Special Meeting.

Monday, September 23, 2013-6 p.m. Special Budget Meeting.

Monday, October 7, 2013-6 p.m. Work Session-7 p.m. Regular Council.

Tuesday, October 15, 2013-6 p.m. Special Budget Meeting

Monday, October 21, 2013-6 p.m. Work Session-7 p.m. Regular Council.

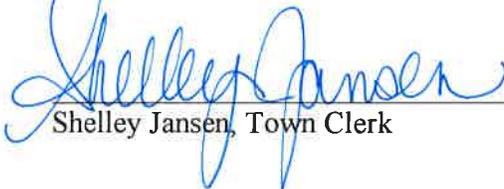
Tuesday, September 3, 2013-6 p.m. Work Session-7 p.m. Regular Council

Monday, September 16, 2013-6 p.m. Work Session-7 p.m. Regular Council

**ADJOURNMENT**

Mayor Huckstep adjourned the meeting at 12:02 a.m.

  
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Aaron J. Huckstep, Mayor

  
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Shelley Jansen, Town Clerk

