

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Tuesday, January 3, 2017
Council Chambers, Crested Butte Town Hall

Mayor Michel called the meeting to order at 7:10PM.

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

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

Chief Marshal Mike Reily, Town Planner Michael Yerman, Parks and Recreation Director Janna Hansen, Public Works Director Rodney Due, Building and Zoning Director Bob Gillie, and Town Clerk Lynelle Stanford (all for part of the meeting)

APPROVAL OF THE AGENDA

Michel stated that Belkin requested an 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) be added to the end of the meeting.

Ladoulis moved and Merck seconded a motion to approve the agenda. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

CONSENT AGENDA

1) December 19, 2016 Regular Town Council Meeting Minutes.

2) Resolution No. 1, Series 2017 - Resolutions of the Crested Butte Town Council Designating the Town of Crested Butte's Three Official Public Places for Posting Town Council Meetings and Other Important Items.

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

PUBLIC COMMENT

Cathy Steinberger

- Questioned why Town didn't restrict parking on one side of Elk Avenue to reduce the congestion. Due normally discussed with the Marshals and Mountain Express, and they would close one side if it became such that busses couldn't get through.

STAFF UPDATES

Rodney Due

- Crews would be plowing every night this week, and they would be pulling banks next Monday.

Lynelle Stanford

- Mentioned the upcoming special event, 12th Night Celebration, on Friday, January 6 at the Chamber parking lot.
- The next meeting would also be on a Tuesday.

Janna Hansen

- They had their first meeting, collectively with the steering committee, for expansion of hockey and Nordic uses at Big Mine. The hope was to come to the Council in a future work session.
- Town received a letter from Law of the Rockies regarding the Heights Open Space on behalf of the homeowners. The attorney advised no access to the slope at all. Immediate ramifications were closures at Big Mine Park. Ice arena activities could continue, and she explained areas that were affected by avalanche danger.

Mike Reily

- Worked with CBMR and their event staff to get a feel for upcoming events.
- The Marshals Office was experiencing an increased workload and a lot of towing. He urged all to park properly.

PUBLIC HEARING

1) Ordinance No. 12, Series 2016 - An Ordinance of the Crested Butte Town Council Amending Chapter 6 of the Crested Butte Municipal Code to Include New Regulations in Article 6 Thereof for the Licensing of Vacation Rentals and Making Such Other Recommended Changes to the Code in Connection Therewith.

Michel confirmed proper public notice was given, and he read the title of the ordinance. Michel explained that tonight was a public hearing. Gillie stated this ordinance was the same ordinance Council considered at first reading with the change to limit to 120 nights from 180 nights. Schmidt questioned zoning and unlimited short-term rentals (STRs). Gillie explained that as the Code was written, current zoning allowed unlimited STRs in certain zones. Out of 255 STR licenses, 199 occurred in an area that unlimited rentals were allowed under current zoning. Gillie talked about conforming uses and how they became non-conforming. MacDonald further explained non-conforming uses and transferability of licenses, including the trigger not to continue with unlimited would be stopping that use. Michel reminded that people could do unlimited 30-day block rentals. Schmidt thought that 30 days was a State definition. MacDonald clarified that the ordinance followed the committee's recommendations on zone districts. She explained the limit was applicable per residential unit.

Michel opened the public hearing to public comment.

Schmidt acknowledged that Council received a lot of letters on both sides of the issue.

Eric Davis - 311 1st Street

- He lived in the B4 Zone, which wasn't acknowledged on the map that was handed out at the meeting. It needed to be corrected.
- MacDonald pointed out that B4 was included on the list that would allow STRs.
- Gillie clarified Davis's assertion in that B4 used to be B3.

Nicole Blaser

- She started renting out her home in 2009. Her home was not in the green zone, referring to the map that was handed out.
- Could potentially lose her home. Renting was how she afforded it.
- It was unclear how limiting the number of nights opened up homes for long-term rentals.
- Michel explained the zones and zoning. If her home were not located in the green zone, she would fall under the limitation.

Dan Escalante - 28 Whiterock #6

- There were different impacts from different types of housing situations.
- The limit needed to be lower than they thought to have an effect.
- He suggested there were no caps, but at a certain number of nights the house became a commercial entity.
- Incentivize.
- He gave Michel credit for his idea of unlimited rentals in April and November.

Steve Ryan - 75 Escalante

- Announced there was a State law since 1981 that prohibited municipalities from controlling rents on properties.
- Rental income was a function of rental rates and time. Council would be controlling time with a limitation, and they were then in the rent control business.
- He reported on information he learned from Telluride.
- He implored the Council to slow down and implement health and safety standards and to revisit once they had data.

Cathy Steinberger - 615 Elk

- She confirmed there was no limit proposed on the number of licenses.
- She asked how they would manage it.

Mark Alling - 818 Sopris

- He echoed Escalante, that at a certain number, a home went from being a residence to a commercial entity.

- 120 days still opened the door for 120 different residents, which didn't seem to be a residential use.

Harvey Castro - 712 ½ Maroon

- When a property changed hands, they had neighbors that became friends and then family. When homes were rented, that didn't happen.
- If they allowed a license to be transferred they were creating a deed enhancement.
- Do not allow transfer of business to the next owner.
- Gave examples of property managers' lack of accountability to include trashcans left out and parking.
- He suggested payment in lieu of parking.
- To answer issues brought up by Castro, Michel referenced Section 6-6-170 (Parking Required), and Schmidt referenced Section 6-6-90 (No Transfer) from the ordinance.

Molly Murfee - 124 ½ Maroon

- Felt like there was a difference between a local renting out occasionally and someone buying a property as an investment.
- Most STRs were owned by people from out of town.
- Had to make decisions based on stewardship of the land.
- Re-upping licenses made sense. Michel confirmed a business license had to be renewed annually.

Roman Kolodziej - 102 Horseshoe

- Didn't want his town full of strangers.
- He had trouble with hiring people, and the primary reason was housing.
- His question was on the methodology of the ordinance. Michel explained they couldn't create a tax above and beyond what covered administration without going to the voters.
- Look into tiering the cost of entry.

Hilary Henry - 708 Belleview

- Wanted to maintain the fabric of the community and keep places for people to live.
- A 120-day limit wasn't enough, but it could limit the community's economic viability.
- There were better options than the limit on days.
- To maintain sense of community they had to make sure that people lived in Town.

Margot Levy - 118 7th Street, Unit G

- She assumed the Council read her letter to the editor.
- She wanted to understand the price tag of a STR. She asked what the dollar amount was for the BOLT, fees, and pillow tax. Gillie thought the pillow tax and sales tax came to around 16.5%. Ladoulis added that the fee would be based on

the cost to administer the program. Michel, amidst discussion, explained the pillow tax was relevant to how many people the residence slept.

John Hess - 325 Sopris

- He estimated there were 2,500 units north of Round Mountain that were either second homes or STRs.
- He liked the idea of taxing units as commercial spaces.
- They should only allow STRs in places that were primary residences.
- He suggested they ask voters in November to tax the units and use the funds for affordable housing.

Sue Navy - 324 Gothic

- Asked what percentage of houses in Town to which the limit would apply.
- A 90-day limit was three times the limit of Telluride, and people would buy homes to live in rather than renting them out.
- She listed regulations she thought had positive effects.
- They could choose to not let the community slip away.
- She asked Council to stand up for the community.

Dale Kramer - 609 4th Street

- Tourists should not stay in homes.
- Future licenses should be restricted to a low number of licenses or nights.
- Maybe they would see increased demand to build a hotel or lodge.

Alex Fenlon - 307 8th Street

- If they were not limiting the number of licenses, there was not a need for a new employee.
- He couldn't believe they were rolling back restrictions, especially in the T Zone. He asked them to consider that exemption.
- He echoed Escalante and Kramer and asked why they didn't zone STRs as commercial businesses.
- Best part of the discussion had been talking about the need for affordable, long-term housing.
- Defend your citizens.
- Those who lived in the product wanted tighter restrictions.

Molly Eldridge - 122 Riverbend Drive

- She was active in the local realtors' association. She was able to work with the national association to review the proposed ordinance.
- The biggest things they were running up against were private property rights.
- She thought it was interesting about the required local contact person, and she saw safety issues for that person.
- They noticed the part of notifying neighbors in a certain area, which could harm relations.

- The ordinance didn't address if licenses were not granted, and the Town Manager had a lot of say and leeway.
- She thought the question remained of what they were trying to solve.
- Michel read Section 6-6-150 (Local Contact) from the ordinance.

Jim Starr - 323 Gothic

- He seconded what Fenlon said, and the map provided at the meeting changed the whole picture.
- They shouldn't be looking at 120 days; he suggested 50 days.
- People were required to maintain two parking spaces off-street, which wouldn't accommodate ten people. Tighten up parking.
- The properties should be classified as commercial.
- The transfer issue remained.
- They were seeing the progression of losing the community.
- He read values from the agenda.
- More and more people who lived here were leaving in July.
- The quality of life was being impacted in this community.

Mindy Sturm

- She implored the Council to be careful with legislation that would be hard to govern and had a lot of confusion.
- If they didn't know what they wanted to accomplish, it was a good reason not to enact legislation.
- Knew people who would have to sell if they couldn't rent out their properties.

Roman Kolodziej

- Questioned the mechanism built into the ordinance to identify problem properties and deny renewals. Michel told him ordinance addressed neighborhood notification.

Nicole Blaser

- She wanted to reiterate that they consider differently locals that survived by renting.

Michel closed the public hearing, and it was opened to Council discussion.

Schmidt asked about transfers and whether the number of days went with the property. MacDonald clarified between a license and use. MacDonald explained that if the use was not utilized for six months or more they would then be subject to the limitation. Michel identified that it was the Code that was determining, not the current ordinance. MacDonald said the existing zoning allowed unlimited STRs, and Town simply couldn't put a stop to it. Belkin explained that Town's zoning was different, and the playing fields looked different.

Michel asked about rent control. Belkin said it was virtually impossible to provide a clear black and white answer. Michel brought up the notion they were stepping on personal property rights. Belkin named a law firm in Connecticut that determined that the way the ordinance was structured, it avoided stepping on property rights. Michel answered the question of why they couldn't impose a tax and that Town would have to go to the voters directly. Ladoulis asked about grandfathered use, and MacDonald explained.

Schmidt was disappointed in the greed. He said they weren't trying to control rent; they were trying to control use. He would vote for a 120-day limit. Mitchell was comfortable with 120 days in the other zones. Michel asked if anyone had an issue with anything else in the ordinance, other than the number of nights. Ladoulis heard the valid concern that the M and T Zones satisfied an element not addressed in R1. He could be inclined to be more restrictive in the M and T Zones. Mason wondered what going down to 90 days would accomplish. He liked Michel's idea of unlimited rentals during off-season times. He wanted to make sure people couldn't come in and buy blocks to rent out. 120 days was a good avenue for them to start, and everything else in the ordinance needed to be in place. Ladoulis could be comfortable with the 90-day limitation. Michel supported the limit of 90 days, and he was fine with the rest of the ordinance. Merck recognized that if a person couldn't pass the grade, they would be eliminated. He thought they were moving towards higher restraints, and they could pass the ordinance. Michel reiterated he wanted to stick with the 90-day limitation.

Michel asked if they wanted to move forward, or if they wanted to continue the public hearing. Belkin advised that they could revise the ordinance. However, he had not reviewed the comments from the real estate people on the rent control law. He also reminded them that the zoning was different from other communities. Merck thought they should take time to discuss further. Ladoulis acknowledged the issue was around the number of days. Belkin confirmed they could make changes to the Code in the future. MacDonald recognized the struggle was that there was not a well-established legal framework, and there was not a lot of case law. Belkin pointed out they were grappling with big issues.

Michel reviewed the three options for the Council to move forward. MacDonald reminded the public hearing had been closed, and they were not required to take more public comment. For example, they could continue for additional legal analysis. Schmidt referred to 16-14-90 (Limitation on Vacation Rentals), numbers 2 and 4. He would not allow in the T Zone, but he was okay with the M Zone. Ladoulis agreed, but his concern was they should open up to public comment. Mason agreed with Ladoulis.

Schmidt moved and Mitchell seconded a motion to continue the hearing to January 17 and that they limit the public discussion to number of days and whether or not T Zone, Blocks 55 and 37, be excluded or not from potential vacation rentals. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) Ordinance No. 20, Series 2016 - An Ordinance of the Crested Butte Town Council Authorizing the Purchase of 721 Butte Ave, Unit 1, Town of Crested Butte for a Purchase Price Not to Exceed \$105,000.00.

Schmidt recused himself, and he left the room.

Yerman informed the Council that nothing had changed. Michel confirmed proper public notice was given. Yerman was aware that there were liens on the property, and \$105,000.00 was the maximum sales price.

Michel opened the public hearing. There were no comments from the public. Public comment was closed, and the meeting was opened to Council discussion. There was no Council discussion.

Mason moved and Mitchell seconded a motion to approve Ordinance No. 20, Series 2016. A roll call vote was taken with all voting, "Yes," except for Schmidt who had recused himself and did not vote. **Motion passed unanimously.**

NEW BUSINESS

1) Discussion of Waste Water Treatment Plant Scope and Funding Presented by Rodney Due, Public Works Director.

Due explained background on the DOLA grant. Town received \$400K of \$1M that was requested, so he bifurcated the project. They planned to move forward with the project, but Town would be using reserves. Mason asked if Town was on the hook for \$400K. Due explained the funding, sources, and the project. Mason asked about the reserves. Due thought they could handle the \$400K. MacDonald said that Rozman was comfortable, and Due said the State was, too. Due explained for Schmidt who the contractors were that he expected to bid.

2) Discussion on Policy for Leasing of Town Owned Properties Presented by Dara MacDonald, Town Manager.

MacDonald included a draft policy in the packet. Schmidt offered to recuse himself, and it was agreed it was not needed. MacDonald reviewed the questions that were in her staff report. Michel heard from renters that it seemed fair. There were no additional comments. No one on the Council voiced disagreement to the policy when polled.

LEGAL MATTERS

None

COUNCIL REPORTS UPDATES AND COMMITTEE UPDATES

Jim Schmidt

- The Housing Committee selected a search firm.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Merck brought up a safety issue he saw at Anthracite Place concerning a large piece of ice that fell and almost hit someone entering the building. Yerman stated that it was up to the Gunnison Valley Housing Authority. MacDonald agreed to inquire about what they intended to do with the expectation they would mitigate.

Schmidt asked about the retreat and the facilitator. MacDonald said they had spoken to Marv Weidener, who was specifically not a group psychologist. He would be submitting a proposal.

Ladoulis asked about Big Air on Elk. Stanford had not heard anything regarding an application.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Tuesday, January 17, 2017 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, February 6, 2017 - 6:00PM Work Session - 7:00PM Regular Council
- Tuesday, February 21, 2017 - 6:00PM Work Session - 7:00PM Regular Council

Yerman stated they were awarded a GOCO Grant for the Crested Butte to Carbondale trail, and there was an upcoming work session.

Michel reminded the Council they needed to decide on Vinotok. Ladoulis wanted the next work session to be specific around fire construction. MacDonald recognized the question lingered regarding the goal of what they were trying to achieve. Ladoulis suggested that Town take over construction of the bonfire. Michel said that more structure was needed in the work session. Ladoulis thought the work session could address how Town should manage the fire. Belkin countered that Town shouldn't be in the business of constructing fires. Mason said that they needed to schedule another work session, and then Vinotok should be on the regular agenda the same meeting.

Ladoulis added that KBUT had their 30-year anniversary party.

EXECUTIVE SESSION

Michel read the reason for the 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).

Schmidt moved and Ladoulis seconded a motion to go into Executive Session for the reason stated by the Mayor. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council went into Executive Session at 10:07PM. Council returned to open meeting at 10:51PM. Mayor Michel made the required announcement before returning to open meeting.

ADJOURNMENT

Mayor Michel adjourned the meeting at 10:51PM.



Glenn Michel, Mayor



Lynelle Stanford, Town Clerk

