

**MINUTES**  
**Town of Crested Butte**  
**Regular Town Council Meeting**  
**Tuesday, February 19, 2019**  
**Council Chambers, Crested Butte Town Hall**

Mayor Schmidt called the meeting to order at 5:00PM.

Council Members Present: Will Dujardin, Chris Haver, Jackson Petito, and Laura Mitchell

Staff Present: Town Manager Dara MacDonald, Town Attorney Barbara Green, and Town Clerk Lynelle Stanford

Community Development Director Michael Yerman, Design Review and Historic Preservation Coordinator Molly Minneman, Finance Director Rob Zillioux, and Public Works Director Shea Earley (for part of the meeting)

**PUBLIC HEARING**

**1) Appeal of the December 18, 2018 BOZAR Denial Determination for the Demolition of the Existing Single Family Residence Located at 20 Third Street, Block 3, West 100 feet of Lots 20-21 and West 100 Feet of the South Half of Lot 19 in the R1 Zone.**

Green summarized the issue that was being decided upon. The Council's decision would be based on the evidence on the record. She outlined the contents that had been included in the packet. The issue was whether the record justified a denial or approval of a permit to demolish the structure. Schmidt reviewed the order of events for the meeting.

Aaron Huckstep was present representing Michael Haney, and he introduced Haney. Haney stated that he wanted to build a new code compliant home. His current home was neither historic nor significant. Haney reviewed his history related to Crested Butte. There was a slide depicting the house located at 20 Third Street. Haney described work that had been done and objectives for the home. There was a slide illustrating the home that Haney was proposing as well as a slide with an example of a Western Victorian home.

Huckstep acknowledged the Council's decision would set a precedent. He called their attention to information provided in the packet. He identified sub-issues and to where they related in the Code. Huckstep suggested conditions for approval and encouraged the Council to review the proposed conditions. Huckstep then asked the Council to approve the application for demolition.

Yerman reviewed the background behind BOZAR's decision. He wanted the Council to recognize the reasons the board made the decision, which he read from his staff report.

He pointed out the analysis of the decision. Minneman explained that the board made their decision based on public comment. Yerman expounded that none of the public comments were made in favor of the demolition.

Yerman added letters from the public to the record. He read the names and addresses of the authors of the five letters and provided the letters to the Council. Yerman and Minneman read the letters into the record.

Schmidt took comments from the public:

Sue Navy

- A house should not be allowed to be torn down just because it was not quite historic.
- It did not mean it could not be made into a better house.
- Houses were a part of Crested Butte's history.
- It was not a time to set a precedent for demolition.
- She asked the Council to uphold BOZAR's decision.

John Hess - 325 Sopris Avenue

- He summarized the documents that made up the packet. There was way too much information to consider.
- He chose to renovate the bathhouse to make it a better place.
- Cited Town Code, identifying specific wording in the sections.
- He argued the home in question was a part of the cultural heritage, and it deserved to be preserved.
- Hess read thoughts written in a letter from Bob Gillie.

Huckstep stated that renovating such a structure was not simple. The application was submitted ahead of the moratorium, and it was not a test case for legislation. It was hard to understand how the project at the cellblocks was approved. Huckstep affirmed that recycling 100% of the structure was an appropriate condition for approval.

Petito confirmed he understood BOZAR's denial. Schmidt thought Huckstep employed a tactic to overwhelm the Council with information. He asked Huckstep the reasoning, to which Huckstep responded. Schmidt questioned the timing of the offers of mitigation to the applicant. Minneman explained, in response to Haver, that BOZAR made their determination based on criteria in the Code. The discussion then focused on excessive dissimilarity.

Mitchell did not think the Council had a leg to stand on. Haver felt the Code was focused on what would be there rather than what was there. The Code was not straightforward on tearing down a structure that was not historic. Dujardin did not look at the house as dissimilar. He voiced agreement with Mitchell. Petito agreed with the statement that the greenest house was the one already built. The discussion again focused on dissimilarity. Schmidt stated his thoughts, and he reviewed the options in front of the Council. Mitchell voiced concern about the house falling apart upon moving it. She did not think

there should be penalties imposed if it was not movable. Haver recognized they needed to make the decision based on the current Town Code. Schmidt thought it was worthwhile to impose the conditions proposed by the applicant. The conditions proposed were: 1) Within 45 days from the date of application approval, the Town will determine if it will accept a donation of the structure. Should it choose to accept the donation, the applicant and the Town will work together to remove the structure from the property by June 15, 2019 or such later date that is acceptable to the applicant; 2) If the Town declines to accept the donation of the structure, the applicant shall use his reasonable best efforts for a period of 45 days (from the date of Town's notice of declining the donation) to donate the structure to a local non-profit organization, a local (i.e. Gunnison County) resident or other party. If a donee is found, the Town will cooperate with the donee's efforts to relocate and reuse the structure by June 15, 2019; 3) If the Town declines to accept the donation of the structure, and no third party is willing or able to accept the structure prior to June 15, 2019 (or such later date that is acceptable to applicant), the Town shall allow the applicant to demolish the structure subsequent to applicant's delivery of a standard recycling plan to Town, pursuant to, and in accordance with, Code Section 16-14-190; 4) Prior to demolition or removal, architectural approval must be granted by BOZAR for the construction of a new residential building; 5) Prior to demolition or removal, permits for a residence to be constructed on the property for which construction drawings have been submitted to and approved by the Building Inspector and necessary fees paid to commence construction.

Mitchell moved and Haver seconded a motion to approve the permit to demolish with the recommended conditions of approval, one through five, contained in the applicant's reply in support of statement of appeal. A roll call vote was taken with all voting, "Yes," except Petito voted, "No." **Motion passed.**

#### **APPROVAL OF AGENDA**

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

#### **CONSENT AGENDA**

- 1) February 4, 2019 Regular Town Council Meeting Minutes.**
- 2) Thomson Divide Legislation Letter of Support.**
- 3) Town Council Referral to BOZAR Concerning Proposed Text Amendments for Chapter 16 and 17 for Subdivision Exemptions.**

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

#### **PUBLIC COMMENT**

John Wirsing - 115 9<sup>th</sup> Street

- He was at the meeting to mention the cell towers that were being considered at the school. It was a major hazard.
- He asked the Council to pass an ordinance to prevent any cell towers within Town and within a ½ mile of Town.
- The alternate location of the treatment plant was not good either.
- The Nordic Center took away the poop disposal at the rec path, and he suggested a location for a garbage can.

Kent Cowherd - 901 Teocalli

- He encouraged the Council to buy one unit with the ADU settlement money.
- He was disappointed that the letter with the explanation regarding Brush Creek had not been published in the *Gunnison Country Times*.
- He wanted to remain the liaison on the Creative District.

### **STAFF UPDATES**

- Schmidt referred to the staff report from MacDonald.
- MacDonald pointed out there was an oversight in the design and plan review for the duplexes that resulted in a change order regarding fire separation. Staff approved the change order, and the Council would most likely see a budget amendment.
- Schmidt acknowledged there would be pasties at the former Ginger Café.
- Petito appreciated the snow removal work on the streets in Town. Mitchell agreed.
- Haver questioned the agenda for the intergovernmental dinner.
- Dujardin asked for an update on fulfilling the Town Council position. MacDonald explained the process for appointment.

### **OLD BUSINESS**

#### **1) Update to Bywater Construction Contract to Build Affordable Housing in Paradise Park.**

Yerman reminded the Council of the ordinance that failed at the last meeting. The contract was brought back in order to discuss the budget implication for the units, which would be about \$17,500 per unit. The money would come out of reserves to subsidize, or the future residents would take on the costs. Also, there was additional testing that would be required on the water lines that would add expenses.

Willa Williford was present at the meeting. She outlined the process to select the developers. She described negotiations that occurred. Haver came across additional information since the last meeting, related to the costs of sprinklers. He would like to ask Staff to provide information to reconsider the decision. Schmidt asked Green about the process to reconsider the vote from the previous meeting. Joel Wisian was amenable to whatever the Council decided. He stated he could postpone the fire suppression. Haver

directed that the fire suppression ordinance be brought back for reconsideration and Petito concurred.

Dujardin moved and Mitchell seconded a motion to approve the amended contract with Bywater with any subsequent changes to be approved by the Town Attorney. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

### **NEW BUSINESS**

#### **1) Ordinance No. 4, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Release of Deed Restrictions on Certain Properties in the Paradise Park Subdivision and Replacement with New Deed Restrictions.**

Schmidt read the title of the ordinance. Yerman identified the change in the deed restrictions to the essential services rental concept, which would create the allowance to rent to employees.

Haver moved and Dujardin seconded a motion to set Ordinance No. 4, Series 2019 to a public hearing on March 4<sup>th</sup>, 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

#### **2) Ordinance No. 5, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Transfer of Town-Owned Property Legally Described as Lots 1-6, Block 76 and Lot 10 Block 77, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to Bywater, LLC for the Construction of Affordable Housing.**

Schmidt read the title of the ordinance. He confirmed the number of units being built. Green explained the process required an ordinance. Schmidt questioned what would occur if Bywater went out of business. Yerman reviewed safeguards in place. MacDonald cautioned that there was risk with worst-case scenario.

Mitchell moved and Dujardin seconded a motion to set Ordinance No. 5, Series 2019 to a public hearing on March 4<sup>th</sup>, 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

#### **3) Ordinance No. 6, Series 2019 - An Ordinance of the Crested Butte Town Council Approving a Loan from the Colorado Water Resources and Power Development Authority; and Authorizing the Execution of a Loan Agreement and a Governmental Agency Bond to Evidence Such Loan.**

Zillioux explained that Staff was not asking the Council to set the ordinance to public hearing. He updated that Town had been approved for the loan, and the approval was valid through June of next year. There was a TABOR compliance issue with the enterprise fund as a result of receiving grant funds. Zillioux explained how the funds

would flow, so Town was able to not take the loan this year. Staff recommended they proceed with the project as planned.

**4) Ordinance No. 7, Series 2019 - An Ordinance of the Crested Butte Town Council Approving the Lease of the Property at Downstairs North Room of the "Old Town Hall" Located on Lot 1 and Part of Lot 2, Block 29 to Paragon Gallery.**

Schmidt read the title of the ordinance.

Mitchell moved and Dujardin seconded a motion to set Ordinance No. 7, Series 2019 to a public hearing on March 4<sup>th</sup>. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**5) Award of a Contract for the Construction of the Water Treatment Plant Improvements and Authorizing the Town Mayor to Enter Into a Construction Agreement Between the Town of Crested Butte and Moltz Construction, Inc.**

Earley reported that Staff wanted to pursue the improvements to the water treatment plant and wanted to enter into an agreement with Moltz Construction.

Petito moved and Dujardin seconded a motion to award the contract for construction of the WTP improvements and authorize the Town Mayor to enter into a construction agreement with Moltz Construction, Inc. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**6) Award of a Contract for the Construction Management of the Water Treatment Plant Improvements and Authorizing the Town Mayor to Enter Into a Professional Services Agreement Between the Town of Crested Butte and JVA, Inc.**

Earley informed the Council the agreement was with JVA for construction management.

Petito moved and Dujardin seconded a motion to award the contract for construction management of the WTP improvements and authorize the Town Mayor to enter into a professional services agreement with JVA, Inc. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**7) Resolution No. 3, Series 2019 - A Resolution of the Crested Butte Town Council Accepting Construction of the Wastewater Treatment Plant Upgrades Performed by Integrated Water Services, Inc.**

Earley explained the resolution represented the loan for the upgrades, and he recommended approval of the resolution.

Mitchell moved and Dujardin seconded a motion to approve Resolution No. 3, Series 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

## **8) Update on Annexation Procedures for the Slate River Annexation.**

Green explained that the Town would follow the statute in the timing of the annexation requirements. Town had to hold the hearing within the statutory time frame, but the hearing did not need to be concluded. Yerman said they would schedule a meeting where the Council would meet as the Planning Commission, which was when they would see the sketch plan. BOZAR would be making a zoning recommendation in March. Green stated that they needed to convert the pre-annexation agreements into an annexation agreement.

## **LEGAL MATTERS**

Green provided an update on Mt. Emmons. There had been a hiatus when the parties reconsidered their positions and strategies. They reconvened in January. A concrete proposal had been made to address Mt. Emmons Mining Co.'s primary concerns. There was a series of meetings on a reclamation-only permit they believed the Governor's office would support. The idea was that conservation easements would prevent mining. There was willingness to work through the concerns. Schmidt suggested the possibility of hydroelectric power.

Schmidt questioned the case with the homeowners on Maroon. The Town was not a party but was instead facilitating discussion amongst the landowners.

## **COUNCIL REPORTS AND COMMITTEE UPDATES**

Will Dujardin

- Met with Maddie Rehn from GPLI. She encouraged Council members to meet with her.

Jackson Petito

- He would be attending the Housing Foundation meeting tomorrow. They would have a retreat to identify priorities on the 27<sup>th</sup>.

Chris Haver

- Attended a Housing Authority meeting. They decided to hold off on the tax until 2020. Haver announced that Schmidt was named the new Vice-President.
- He went to the RTA meeting. They were working on a grant for a new air route and were guaranteeing flights from Houston this summer. They discussed locations for new shelters on Highway 135. They would be having a retreat.
- The Chamber event, Crafted, was coming up, and they were still seeking volunteers.

Laura Mitchell

- Received an email from Chris Larsen. Mountain Express carried more than 9,000 people on Saturday.
- MacDonald questioned discussions on the Gothic route for next year.

Jim Schmidt

- Went to a housing meeting. He asked if anyone on the Council felt strongly about asking for a tax in 2020. He mentioned upcoming projects.
- Attended a mayor/managers meeting. They heard a report on housing. They discussed opposition in the group to a countywide tax.
- Myles Rademan, from Park City, would be bringing about 70 people to Crested Butte this September. MacDonald identified the purpose of leadership development.

### **OTHER BUSINESS TO COME BEFORE THE COUNCIL**

Schmidt brought up Cowherd's request to remain a liaison for the Creative District. MacDonald explained the make up of the Creative District, including that a Council member was to be appointed.

Mitchell questioned the status of the settlement money. MacDonald recommended the Council settle the sprinkler situation before proceeding with spending.

Haver mentioned the trash can request made by Wirsing. MacDonald would discuss with the Nordic Center and Parks and Rec.

Haver revisited Wirsing's request for an ordinance restricting cell towers. MacDonald and Green agreed it was not an option to outright ban cell towers. MacDonald acknowledged Staff would need to postpone other work if the Council wanted to take up the topic. She recognized towns could place some regulations. Haver questioned the effectiveness of doing such. Mitchell suggested cell towers be located on Avalanche Acres. Petito asked for the contract between the school and Verizon. He questioned ownership of the school property. Green was aware of FCC exemptions that applied to small cell phone towers.

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

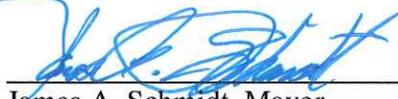
- Monday, March 4, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, March 18, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, April 1, 2019 - 6:00PM Work Session - 7:00PM Regular Council

Schmidt recalled Yerman's suggestion for a meeting on April 8<sup>th</sup>. Dujardin thought he might be absent. The Council would further discuss the timing of the meeting.

The Council confirmed the new member would be appointed at the beginning of the meeting on March 4<sup>th</sup>.

**ADJOURNMENT**

Mayor Schmidt adjourned the meeting at 8:44PM.



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James A. Schmidt, Mayor



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Lynelle Stanford, Town Clerk (SEAL)