

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, March 7, 2016
Council Chambers, Crested Butte Town Hall

Mayor Michel called the meeting to order at 7:06PM.

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

Staff Present: Town Manager Todd Crossett, Town Attorney John Belkin, and Town Clerk Lynelle Stanford (for all of the meeting except for the last Executive Session)

Public Works Director Rodney Due, Chief Marshal Tom Martin, Building and Zoning Director Bob Gillie, Finance Director Lois Rozman, Town Planner Michael Yerman, and Parks and Recreation Director Janna Hansen (all for part of the meeting)

APPROVAL OF THE AGENDA

Belkin stated they would bifurcate and take 20 minutes out of the first Executive Session for Scott Miller to present to the public on water law in general and the Town's water rights. They would then go into Executive Session on matters specific. Belkin suggested they incorporate a new business item and then go into Executive Session.

Schmidt moved and Mason seconded a motion to approve the agenda as modified by the Town Attorney. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

CONSENT AGENDA

- 1) **Approval of February 16, 2016 Regular Town Council Meeting Minutes.**
- 2) **Approval of February 26, 2016 Special Town Council Meeting Minutes.**
- 3) **Approval of Letter of Support for Crested Butte Land Trust's Grant Application to the Laura Jane Musser Foundation for Replacement of the Gunsight Bridge, Riparian Restoration, and Trail Signage.**
- 4) **Approval of Resolution No. 5, Series 2016 – Resolutions of the Crested Butte Town Council Approving the Replat of Blocks 79 and 80, Paradise Park Subdivision, Town of Crested Butte.**

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

Water Attorney Scott Miller presented on water rights in general. He said he would give an abbreviated version of Colorado Water Law 101. Miller explained that a person didn't have rights to the water just because a stream course or natural water flowed through his/her property. In the West, water was allocated on a priority system. Water was held in trust by the State, and water rights were allocated through the court system. Anyone in Colorado could obtain an individual water right. Colorado had seven water courts and seven divisions, which were based on basins. Crested Butte was in the Gunnison River Basin. Miller explained that not all water found in Colorado was available for appropriation. Colorado had compact obligations to downstream states. Anyone who obtained a water right in 2015 would be senior to all water dates in 2016. Miller identified two major categories of water rights: absolute water rights and conditional water rights. Conditional water rights were to allow major projects to secure a place in line. Project managers had to go back every six years because Colorado didn't allow pure speculation for the future unknown sale of water. Miller reviewed types of water rights, including water rights for recreational in-channel diversions (RICDs). RICDs tied up the ability for someone to come from upstream and appropriate the water. Miller stated that water rights could be lost through abandonment, which required non-use, along with the intent to permanently discontinue use. Water rights could be adverse possessed. Also, there was the ability to change water rights to new uses. For example, Town changed the use of the McCormick Ditch to allow the water right to be diverted at Town's intake at Coal Creek. However, the rules were different for ground water. Ground water was treated tributary to surface water. Any well drilled in Colorado needed a permit. A separate decree was needed for storage.

Miller reviewed the Town's water rights:

- Crested Butte Water Ditch and Wildcat Pipeline - Adjudication date of 1941. Appropriation date of 1893.
- McCormick Ditch - Transferred or changed for direct diversion through the Crested Butte Water Ditch. 1906 priority.
- Halazon Ditch - Diversion at Town's intake for use within Town parks for irrigation.
- Direct flow water from McCormick Ditch just for irrigation - 1961 priority.
- Lake Irwin or Bernard Reservoir - Decreed in 1937 from Anthracite Creek. Second-most senior on Anthracite Creek. Decreed for municipal purposes.
- Crested Butte Town Pipeline - Conditional. Decreed in 1972 for diversion on the Slate River. Stated that Town had not yet perfected.
- Lori's Spring and Ditch off Slate River - Decreed for irrigation and commercial. Due clarified for Schmidt it was by the donut pond.

Miller reviewed the total cubic feet per second (cfs) owned by Town. Michel asked if Town was in good shape. Miller stated the Town's water supply was in good, overall shape. Belkin explained the information shared was in the public domain; water rights were like property. Miller would talk more about strategy matters in the Executive Session, which were proprietary.

EXECUTIVE SESSION

Schmidt moved and Mason seconded a motion to go into Executive Session for the purpose of discussing the purchase, acquisition, lease, transfer, or sale of real, personal or other property interest under C.R.S. 24-6-402(4)(a) relative to certain Town and other water rights. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council went into Executive Session at 7:35PM. Council returned to open meeting at 8:32PM. Mayor Michel made the required announcement before returning to the open meeting. No action was taken.

PUBLIC COMMENT

Benjamin Swift - 169 Slate River Drive

- Thought that plastic bags were wasteful.
- He felt using plastic bags was a habit that could easily be broken.
- Stated that eight towns in Colorado, including tourist-based towns, had already instated plastic bag bans.
- Encouraged the Council to vote, "Yes," on the motion to direct Staff to start pursuing an ordinance to lead other towns in sustainability.
- Vohman requested to further discuss a plastic bag ban under Other Business, and Mitchell concurred.

Randy Swift - 169 Slate River Drive

- Was supportive of doing something, even though he recognized it was complicated in a tourist town. He supported his son's efforts.

There were people present to support Swift's plastic bag ban including: Elina, Elizabeth and Don Smith all residing at 422 Nicholson Lake Ridge Road; Todd Wasinger residing at 822 Teocalli Avenue; and Sam Faivre residing at 97 Slate Lane.

STAFF UPDATES

Janna Hansen

- The rink would be closing on Sunday. They would be pulling lines, but it could be skatable into the next week.
- Had been working on the avalanche mitigation plan. Art Mears was working on a proposal with a menu of options and recommendations for Big Mine Park in particular.
- Schmidt asked if they had stats on the ice rink for both hockey and free skating. Hansen had hard numbers for hockey but not for public skating. Anecdotally, skate rentals had been increasing. Hansen recognized that there were families unhappy with the balance of games between Crested Butte and Gunnison. She was confident there could be a change at the WEHA level for next year.

Lois Rozman

- Provided the Council with sales tax numbers for January. She explained that she used a new format in order to compare apples to apples after the rate increase. She stated Town was down 1%, but they were missing filers. She expected sales tax to come out flat.
- The auditors would be here next week. She encouraged the Council to ask them questions.

Tom Martin

- There would be a training exercise on Wednesday at the school. It would be an active shooter situation. Multiple agencies would be participating, and they would be practicing incident and unified command. They had a flight for life helicopter scheduled for the last training drill that couldn't land due to weather. The helicopter was planned for Wednesday's exercise. The exercise would start at 5PM. Ladoulis wanted signage at the street level to notify people. Martin said they would use sandwich boards, and Dukeman was working to secure the light up message board for the entrance to Town. They also did notification in the neighborhood.

Rodney Due

- Received a \$90K grant from DOLA for the design of the wastewater treatment plant upgrades.
- Had the bid opening for the clarifying treatment project.

Bob Gillie

- The biannual deed restricted housing survey went out. They would be cranking up enforcement issues around June 1.
- The Sixth Street Station re-zoning issue would be in front of BOZAR the 24th of this month.
- Michel asked when the Center for the Arts would be in front of BOZAR. Gillie said they would be on the agenda for the meeting on the 24th, which would be a special meeting.

Lynelle Stanford

- Expected a special event application for the Big Mountain Enduro, which would be proposed for September 2nd through the 4th. The event was planned for the same weekend as the West Elk Bicycle Classic.
- Sent sidewalk seating application packets to business owners.
- Betty Warren and the public works crew had worked hard on two winter burials at the cemetery.

Todd Crossett

- Copies of Colorado's Water Plan Executive Summary and Colorado Climate Plan were available. Ladoulis requested digital versions.
- Snow pack in the Upper Gunnison District was 99% of normal.

PUBLIC HEARING

1) Ordinance No. 1, Series 2016 – An Ordinance of the Crested Butte Town Council Authorizing the Short Term Borrowing of Funds Not to Exceed \$170,000.00 and the Expenditure of Such Funds for Purposes of Purchasing a Certain 2016 John Deere Loader by Way of a Lease to Purchase Arrangement.

Michel confirmed that proper public notice was given. Rozman stated there had been no changes since the last meeting. There were no public comments, and it was opened to Council discussion. There was no Council discussion.

Schmidt moved and Ladoulis seconded a motion to approve Ordinance No. 1, Series 2016. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

NEW BUSINESS

1) Ordinance No. 2, Series 2016 – An Ordinance of the Crested Butte Town Council Adopting Changes and Additions to the 2016 Budget and Appropriations Relative to the General Fund, and General Capital Fund.

Rozman confirmed there had been no changes from the time her staff report was written, and the information had been discussed at a previous work session. She explained the ordinance was due to the .5% increase in sales tax for parks.

Vohman moved and Schmidt seconded a motion to set Ordinance No. 2, Series 2016 for public hearing at the March 21, 2016 Council meeting. **Motion passed.**

2) Presentation by the Crested Butte Community School Regarding a Student Design- Build Affordable Housing Proposal.

Todd Wasinger, Design Teacher at the Crested Butte Community School, was present at the meeting. Yerman explained they would be using an affordable housing micro lot on which to build. Students would design the house. Yerman stated that the Town’s affordable housing fund was drained, but this project could produce a unit at a low cost. Also, Town could do in-kind work. The students would help construct, and Town would pay for materials and some subcontractors. Yerman said they could sell the unit to balance the budget. Crossett further explained Staff was looking for direction to pursue and also a short-term blessing to allow the project to come in front of BOZAR, which would incur some expense. Michel asked if Staff was just looking for a thumbs up from Council, which Crossett confirmed.

Wasinger stated that students would design the building, and it would be 800 to 1,000 square feet. Wasinger named professionals who expressed interest in being involved on the project. He said they would offer a year-long course starting next year. They had engineers to help create a sustainable building. They would build in the summer of 2017. Finish work would be completed during a course the following fall. Ladoulis wondered

if Town would own the structure. Yerman said the issue was the deduction from the affordable housing budget, and they could sell the unit to recoup costs when they had a better idea of where the budget was sitting. Town could be ahead on ROAH, and building rentals was difficult. Michel said the bottom line was they could find the money somehow. Yerman said a hiccup was TABOR and going over the budget year. The next step was to bring a MOU. Schmidt asked if the house would be a two story with no garage. Wasinger said it would evolve, but he imagined a ½ story with living space upstairs. Michel thought it was an exciting project, and he commended Wasinger for being pro-active. No one on the Council voiced opposition, and there was a thumbs up sign given from the Council.

3) Discussion and Possible Direction Regarding Town Policy Relevant to Removal of Snow from Alleys.

Due provided background that distribution lines were located in the alleys because they weren't plowed. In the 90s, Town began to allow garages and accessory dwellings in alleys. Homeowners would hire contractors to plow, and they were able to work it out. But, over the last few years, plowing the alleys had become a concern. Snow was pushed and blown over fences causing issues, such as allowing dogs to escape and creating other civil issues. People became upset when contractors put snow on their property. Due stated Town would need to double Staff for Town to plow alleys. Town had an obligation to address to be able to control, and they needed guidelines for contractors. Crossett said it had hit critical mass of antagonism. Martin stated he mostly received calls during storm cycles. He said they would give enforcement power when needed, but they didn't have teeth in the ordinance. Ladoulis acknowledged that Due suggested in his staff report that snow be removed within 72 hours of a snow event. Michel asked where contractors put snow when they plowed an alley. Due said it was supposed to be hauled away, and he was proposing that it be removed 72 hours after a snow event. Ladoulis asked how many contractors transported snow. Mason said they would have to hire a trucking company, and it would be a cost to homeowners. Due stated that 72 hours corresponded to the snow plan. Ladoulis was trying to understand the consequences. They would either have non-compliance or a demand for trucking, which may or may not be satisfied. Due agreed that the cost would increase for homeowners. Mason said that people needed to park in alleys for the winter. Crossett said that they were increasing the cost to homeowners, who were the ones complaining. The impact and complaints fell on the homeowners. Due thought Town had some obligation. He said people didn't attend the discussion because of the late hour. Mason wanted to discuss each point in Due's staff report, including the fact that 72 hours was not realistic. Crossett said Staff was bringing it up for discussion. Due read from the staff report and stated that snow plowed in Town alleys shall not be placed on private property without written consent from the owner. He cited the situation of a fence being destroyed, and there was no record of who plowed. People also complained about flooding. Ladoulis wanted to know if Town could participate in hauling. Due answered that Town did not have the manpower or machinery. However, Town had an obligation because they were Town's alleys. Water systems were put in with the intent to not have traffic in alleys. Michel saw a lot of concerns from the Council. He asked if they should have a work session. Crossett

confirmed they could come back with a work session or another agenda item. Ladoulis was curious to know what the cost to Town would be to plow all the alleys. Vohman agreed it was not fair to put the onus on homeowners. Mitchell asked if they could identify which alleys were affected. Due didn't know who was plowing what. Mason countered they could identify problem alleys. Martin confirmed it was complaint driven for the Marshal's Office. Mason said that some people liked having their alley blocked. Michel said they needed to come back again. They identified an issue, and something needed to improve. Schmidt thought that the permit ought to be held by homeowners as opposed to contractors. Due thought it was easier for the contractor who handled a lot of alleys. Michel confirmed the discussion was to be continued. Crossett said it would be brought back as an agenda item or work session. Michel preferred a work session.

4) Discussion and Possible Direction of Town Manager to Issue a Comment on Behalf of the Town Relevant to a U.S. Forest Service Proposal to Close Dispersed Camping in the Gothic Corridor.

Crossett thanked Vohman for her initiative in adding as an agenda item. He explained that the Forest Service (FS) had a proposal to close the Gothic Corridor to dispersed camping. The FS was taking comments through the 18th of March. Crossett said it became critical last year. The problem was driven by recreationists loving the valley and by people seeking housing outside of Town. The impacts were acute in the Gothic Valley. The County called a summit last year, and the result was the regional office in Delta formed an initiative to close Gothic to dispersed camping. Camping would be allowed in campgrounds, but it would be closed to off road vehicle travel to protect natural resources and scientific sites. Crossett suggested that Council could direct him to send a brief comment to the FS that Town endorsed the proposal. The downside was that if the Gothic Corridor was closed, people would move to another corridor.

Michel disclosed that his wife worked for the Rocky Mountain Biological Laboratory (RMBL), he owned land on the Schofield Town Site, and he also sometimes worked for RMBL. He was happy to recuse himself. No one on the Council verbally agreed that Michel needed to recuse himself, and he remained present.

Vohman suggested that Town add to the comment to the FS about enforcement and allocating funding to it. Ian Billick, Executive Director of RMBL, said there had been some jurisdictional issues with enforcement. Billick cited similar discussions that went back to the 50s. He said that last summer there was a big change in the public attitude. In the past, people were accommodating, but last summer people wanted to actually see the rule. Previously, disputes could be handled person to person. Ladoulis asked how many campers were in the Gothic Corridor last summer. He wondered where they would go. Billick saw 25 to 50 campers each weekend, depending on the weekend. He said they wanted access to special events in the area. Schmidt preferred to see money spent on porta potties rather than on patrol. Michel clarified Town would be encouraging action, and it was a first step closer to a solution. He saw the impact increase exponentially. Vohman was concerned about Emerald Lake, and she suggested the

comment should include closing the road to the lake. Schmidt had a problem with not offering an alternative.

Crossett said they had to decide if they wanted to comment at all, and then they could ground out on the points. Mason thought that closing off one corridor and not addressing the others didn't make sense. He didn't want to comment until they looked at the other corridors. Schmidt didn't mind sending a comment, but he said it was a half measure. Vohman thought Gothic could be a pilot project if it worked. Michel reminded the Council it was not their jurisdiction; they were just commenting. Mason asked the Council if they were looking to stop all dispersed camping. Michel recognized that Town was proactively trying to find solutions for more camping. Mitchell questioned how they would enforce and what would happen in other drainages. She wanted to honor RMBL, but there was a large swath of land that would be closed to the public. Michel said that campgrounds would still exist, and he explained dispersed camping. Ladoulis wanted to see a solution across all corridors, but Town didn't have a direct hand in any of them. Crossett confirmed the FS was leading the charge. Schmidt was supportive, but they needed a plan for other basins. Ladoulis identified a risk of not commenting was the appearance of not caring, but he was concerned that planning for the basins was not being done simultaneously. Michel stated they had identified backcountry management as a goal.

Vohman moved and Mitchell seconded a motion that the Council supported closing Gothic Corridor to dispersed camping this summer; however, the Council strongly encouraged the Forest Service to adopt a more comprehensive regional plan. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

LEGAL MATTERS

Belkin referred to an email he sent last week on the Mt. Emmons conversation. They would meet on a proposed solution for the real estate issue. Additionally, they would meet with Freeport and the Forest Service to talk about the plant, real estate, and permitting issues. The State would be there as well. Then, they would meet with Freeport to discuss the real estate piece of the transaction and trying to advance the term sheet. He would send an update via email after the meetings.

COUNCIL REPORTS UPDATES AND COMMITTEE UPDATES

Laura Mitchell

- Covered the One Valley Prosperity Project (OVPP) housing meeting for Vohman. The consultant started the meeting by telling them that if they didn't collaborate, each needed to work separately.
- Said that OVPP was wordsmithing to come up with their goal.
- Habitat for Humanity had land, but the City of Gunnison and the County needed to work together.
- Town was doing a great job on affordable housing.
- Suggested that they look into landing fees for private jets at the airport.

- Attended a Mountain Express meeting. Described it as business as usual.

Roland Mason

- Financially, Mountain Express was doing well.
- Ridership was flat.
- Ordered a van that could be used for driving around seniors or going to Gothic.
- Had good reserves built up, and they were interested in a shop expansion.

Paul Merck

- Coldharbour had good things going on, and they were determining next steps.
- They talked about bringing the Energy Smart and ORE components back, but their ideas were different from what they were previously.
- Thought that Town needed their own Coldharbour.

Jim Schmidt

- Reported that the Gunnison Housing Committee, led by Karl (Fulmer), didn't have the same tension as OVPP. He thought that OVPP seemed to be duplicating efforts. They were supposed to meet, but Fulmer was injured.
- Attended a Creative District meeting. It was their second meeting, and they focused on the website and logo.

Erika Vohman

- They had formed the Weed Committee, which allowed for access to funding.
- Met with the Senator's office and Earth Justice about the letter closing the road less rule loophole. Another coal mine in Colorado closed.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Vohman wanted to discuss a plastic bag ban in response to Swift's comments during Public Comment. Vohman stated she wanted to direct Staff to research ordinances and bans that were working in Colorado and beyond. Crossett added there was knowledge within CAST. Schmidt countered he would prefer to have a committee made up of Council members to present three solutions. Council would then vote on the proposal that would work best. Merck agreed with both Schmidt and Vohman, but he wanted to make sure Swift took the lead in gathering information. Mason didn't want to direct Staff, but he wanted to see a presentation and more homework done. He wanted to find out how the community, mainly the business community, would deal with it. Mitchell felt like the community would support a plastic bag ban, but she wondered about plastic dog poop bags. Ladoulis said there were a lot of ways to do it, including using cornstarch bags. There were good ideas, and there were good policies. Michel reminded the Council they identified priorities at the retreat. He was the only one who chose the Energy Action Plan as a priority, and they did not identify waste reduction as a priority. Michel stated that Town had an Energy Action Plan, and waste stream reduction would have very little gain for the effort. He wanted Council to identify the goal (of a plastic bag ban). No one wanted to be using plastic bags, but many changes would have a higher impact and benefit. Michel listed issues that the plastic bag ban would take from Staff

time. He suggested the Council look into other alternatives. Merck said he would work with Vohman and Swift to come back to Council to see if they could come up with something that would work for the community, and they would keep it going. Michel reiterated they were trying to stick with the goals decided upon at the retreat; he didn't want to forgo a group decision already made. Belkin offered to obtain plastic bag ordinances from other towns on the Listserv. Michel said he didn't want bags either. Michel encouraged the Council to revisit the Energy Action Plan. A plastic bag ban was at the bottom of the list. Schmidt asked if Vohman agreed to work with Merck and Swift, and she agreed. Schmidt agreed to work with them, too. It was decided the sub-committee would report back to the Council.

Vohman asked the Council if they wanted to rescind a decision made at a previous meeting to waive the code of conduct to allow (Aaron) Huckstep to represent his client, Sixth Street Station, to the Council. Vohman felt strongly that they needed to revisit. Belkin said they could consider when he came back to Council, or they could add the topic to the next meeting agenda. Schmidt referred to *Robert's Rules of Order*, and he thought that a person who voted positively had to overturn. Belkin didn't think they had adopted *Robert's*. Michel asked if anyone agreed with Vohman. Ladoulis didn't want to change their minds over decisions. He wondered if the facts had changed. He was open to the discussion if the facts had changed. Vohman questioned Huckstep's history with the client, and she thought it seemed odd. Ladoulis wondered if there was some reason to believe the Council was doing Huckstep a favor, what involvement Huckstep had, and what votes he made in his client's favor. He didn't think it was anything the Council had discussed. Belkin said while Huckstep was Mayor, the Council voted on a vested right extension for Sixth Street Station. Michel said that Sixth Street Station would come back again. He didn't think Council should have waived the code of conduct. He asked if anyone else wanted to bring it back up, and no one supported Vohman's effort.

Michel said the Council had been emailing each other a lot. He said to refrain because it became a meeting if someone responded. Belkin said he could send a memo with an explanation. Michel asked them to be mindful of sending emails to all seven Council members. Belkin said they could copy the Town Clerk for the record on emails, but they could not engage in back and forth communication. Michel said topics could be brought up under Other Business.

Schmidt brought up Vinotok. The past five years, neighbors had been protesting the current site of Vinotok. He thought they owed them to discuss well in advance of the event. He wanted it on an agenda sometime in the spring. The Council agreed sooner was better than later.

Vohman asked if the \$2K the Town contributed to Big Air would be recouped. Crossett said they would work on it.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, March 21, 2016 – 6:00PM Work Session – 7:00PM Regular Council
- Monday, April 4, 2016 – 6:00PM Work Session – 7:00PM Regular Council
- Monday, April 18, 2016 – 6:00PM Work Session – 7:00PM Regular Council

Crossett said he had VHRs and alley snow removal on his list, along with a discussion on special events. Belkin wanted to know the scope of the special event discussion. He wanted to see a process suggested. Crossett asked if they wanted to see an enforced policy or a different policy. Ladoulis wanted to solve for the event process. He wanted events ran well. He wanted them to go off as planned to benefit Town. He said that after Big Air, they had to be prepared to treat other events the same.

EXECUTIVE SESSION

Schmidt moved and Ladoulis seconded a motion to go into Executive Session for discussion of a personnel matter under C.R.S. Section 24-6-402(2)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees relative to the process for reviewing the Town Manager, Todd Crossett requested by Councilmen Ladoulis and Schmidt. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

The Council went into Executive Session at 10:44PM. Council returned to open meeting at 10:58PM. Mayor Michel made the required announcement before returning to the open meeting. No action was taken.

ADJOURNMENT

Mayor Michel adjourned the meeting at 10:59PM.



 Glenn Michel, Mayor



 Lynelle Stanford, Town Clerk (SEAL)

