

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, April 1, 2019
Council Chambers, Crested Butte Town Hall

Mayor Schmidt called the meeting to order at 7:00PM.

Council Members Present: Will Dujardin, Chris Haver, Candice Bradley, Jackson Petito, Laura Mitchell, and Paul Merck

Staff Present: Town Manager Dara MacDonald, Town Attorney John Sullivan, and Town Clerk Lynelle Stanford

Community Development Director Michael Yerman, Town Planner Bob Nevins, Parks and Recreation Director Janna Hansen, Chief Marshal Mike Reily, and Finance Director Rob Zillioux (for part of the meeting)

Schmidt thanked Todd Barnes for his service to Mt. Crested Butte.

APPROVAL OF AGENDA

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

CONSENT AGENDA

1) March 18, 2019 Regular Town Council Meeting Minutes.

2) Restaurant/Bar Seating on Public Sidewalks for: Brick Oven LTD DBA Brick Oven Pizzeria Located at 223 Elk Avenue; B & C Restaurants LLC DBA Elk Avenue Prime Located at 226 Elk Avenue; Vertigo Ventures LLC DBA The Secret Stash Located at 303 Elk Avenue; Teocalli Tamale Company DBA Teocalli Tamale Located at 311½ Elk Avenue; Public House LLC DBA Public House Located at 202 Elk Avenue; and Ladybug LTD DBA Talk of the Town Located at 230 Elk Avenue.

3) Approval of the Updated Noxious Weed List.

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

PUBLIC COMMENT

Kent Cowherd - 901 Teocalli Avenue

- Commended the work done by the public works crews.

- He acknowledged the ADU settlement agreement, and he suggested Town should get at least one unit with the money.

STAFF UPDATES

- Schmidt identified decision points in MacDonald's staff report.
- One question posed concerned parking plan implementation. Dujardin had not heard from constituents that the parking plan was needed immediately. Mitchell, Merck, and Haver voiced agreement. Haver said they could open the discussion with the public. Merck suggested enforcement on two hour parking and parking at the post office. Schmidt agreed with Dujardin. He heard mostly negative comments on the parking plan. The Council would revisit in the fall.
- Schmidt pointed out that MacDonald recommended Rob Zillioux be appointed as Town Manager in her absence.

Mitchell moved and Haver seconded a motion to appoint Rob Zillioux, Finance Director, to cover the Town Manager position from April 10th to May 3rd. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

- Schmidt and Dujardin both confirmed they were interested in attending the summit on aggressive carbon reduction goals in Park City.
- MacDonald reported that sales tax was up 2.3% in February.
- The Council agreed that Big Mine Park or Crank's Plaza would be an acceptable location for the Thursday night farmers market.
- Dujardin brought up the fact that Bridges of the Butte was proposed to be 12 hours rather than 24 hours. He wanted to allow the Marshals to staff overtime to cover the 24-hour version of the event. He suggested that Adaptive might instead do a 24-hour event with the support of the Town. MacDonald clarified the role of the Town was to make sure the event was as safe as possible. Schmidt cited concerns he had observed in the past. Mitchell recommended that the nighttime volunteers be paid. There was discussion on the line item for the overtime cost. The Council would consider the application as presented by the event organizers.
- There was discussion on quorums for upcoming meetings.

PUBLIC HEARING

1) Ordinance No. 8, Series 2019 - An Ordinance of the Crested Butte Town Council Adding Code Section 10-6-60 Prohibiting the Possession of Tobacco/Nicotine Products by Persons Under the Age of Eighteen to the General Offenses Section of the Crested Butte Municipal Code; And Providing Penalties for Violation Thereof.

Schmidt read the title of the ordinance. Sullivan outlined changes and additions made from the original ordinance, including that he made updates in the recitals to reference C.R.S. Section 25-14-301. The amendments were in response to the Council not wanting to make a violation a criminal offense for a minor in the criminal justice system. Petito recognized there needed to be a change in wording, in the first redlined whereas clause,

which was to change a “to” to a “by”. Schmidt confirmed proper public notice had been given. He opened the public hearing. There were no comments from the public, and the public hearing was closed.

Dujardin moved and Merck seconded a motion to approve Ordinance No. 8, Series 2019 with the change mentioned by Jackson. A roll call vote was taken with all voting, “Yes,” except Mitchell voted, “No.” **Motion passed.**

2) Ordinance No. 10, Series 2019 - An Ordinance of the Crested Butte Town Council Approving the Lease of Unit A (Located in the Upper Level of the Chamber of Commerce Visitors Center - A Town Owned Building) Located at 601 Elk Avenue to Nautilus Sailing, LLC.

Zillioux stated Town wanted to proceed, and he outlined the details of the lease. Schmidt confirmed proper public notice had been given. No one from the public chose to comment. The public hearing was closed.

Merck moved and Mitchell seconded a motion to pass Ordinance No. 10, Series 2019. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

3) Ordinance No. 11, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Repeal of Section 4-2-90(b)(1) of the Town Code Concerning a Credit for the 1.5% Vendor’s Fee Against Taxes Due from Gross Sales.

Schmidt confirmed proper public notice had been given. Zillioux explained what the vendor fee was. He said that more and more home rule municipalities were removing the fee. He stated it would help the Town balance the budget without raising taxes, and he estimated Town could gain \$61,500.

Schmidt opened the public hearing.

Sean Hartigan - Owner of the Last Steep located at 208 Elk Avenue

- He stated that business was hard enough.
- He did not think it was right or fair to take the vendor fee away.

Drew Henry - Owner of The Dogwood located at 309 3rd Street

- He agreed with Hartigan that it put a tax on business owners.

Sarah Jane Lubeley - Owner of The Dogwood

- She agreed with Henry and Hartigan.
- She was not in support of removing the vendor fee.

Richard Machemehl - Owner of Niky’s Mini Donuts located at 327 Elk Avenue

- He agreed with the other business owners.
- The vendor fee was a way to recoup costs, including credit card fees.

Joshua Futterman, President of the Board of Directors of the Crested Butte/Mt. Crested Butte Chamber of Commerce

- He agreed with comments made.
- It seemed like an additional burden.

Ashley UpChurch, Executive Director of the Crested Butte/Mt. Crested Butte Chamber of Commerce

- She agreed with comments made by the business owners.
- Her members had been busy. She thought more people would have come out to voice opposition if they had paid attention.
- She backed up what business owners were saying.

Schmidt closed the public hearing and opened the meeting to Council discussion. Mitchell thought the ordinance would be a whack to mom and pops. Bradley acknowledged they should cultivate the relationship with small business owners. Merck agreed with the business owners and the Chamber. Petito was swayed because he paid credit card fees. Haver voiced opposition to the ordinance.

There was no motion, so the ordinance died for lack of motion.

4) Ordinance No. 12, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Release of Deed Restrictions on Block 77, Lot 3, Unit B Peeler Townhouses in the Paradise Park Subdivision, Town of Crested Butte, Gunnison County, State of Colorado Reception No. 543195 and Replacement with New Deed Restriction.

Yerman explained there had confusion with the lender and another deed restriction in Mt. Crested Butte. He asked the Council to continue the public hearing to April 15th to allow them to sort through underwriting.

Schmidt read the title of the ordinance. He confirmed proper public notice had been given. He opened the public hearing. No one chose to speak. The public hearing was closed.

Mitchell moved and Bradley seconded a motion to continue Ordinance No. 12, Series 2019 to the April 15th meeting. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

5) Ordinance No. 13, Series 2019 - An Ordinance of the Crested Butte Town Council Deleting and Re-Codifying Chapter 16, Article 12 Condominiums and Townhouses, and Amending Chapter 17, Articles 1-General Provisions and Article 3-Major and Minor Subdivisions Generally.

Schmidt read the title of the ordinance, and he confirmed proper public notice had been given. Nevins clarified revisions from the last meeting, and he reviewed the proposed changes. He explained the reasoning for technical review. Nevins outlined changes to

the exemptions. MacDonald recommended that the Council strike, “by Town Council,” from Section 6, in the Town of Crested Butte approval, on page 166 of the packet, if the Council decided to approve the ordinance. Yerman confirmed that BOZAR approved the plat.

Schmidt opened the meeting to public comment. There were no comments from the public. The public hearing was closed.

Haver moved and Dujardin seconded a motion to approve Ordinance No. 13, Series 2019 with the amendment of striking “by Town Council” in Section 6. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

6) Ordinance No. 14, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Sale of Town-Owned Property Legally Described as Lot 6, Block 79 Unit A, 914 Butte Avenue, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to Joseph Carpenter and Katherine Cooke for the Sale Price of \$275,000.00.

Schmidt read the title of the ordinance, and he confirmed proper public notice had been given. Yerman reviewed work done in each unit. He thanked John Stock.

The public hearing was opened. No one chose to comment. The public hearing was closed.

Bradley moved and Mitchell seconded a motion to approve Ordinance No. 14, Series 2019. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

7) Ordinance No. 15, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Sale of Town-Owned Property Legally Described as Lot 6, Block 79 Unit B, 916 Butte Avenue, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to Guy Ciulla for the Sale Price of \$275,000.00.

Schmidt read the title of the ordinance. He confirmed proper public notice had been given. Guy Ciulla was present at the meeting. The public hearing was closed.

Merck moved and Dujardin seconded a motion to approve Ordinance No. 15, Series 2019. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

8) Ordinance No. 16, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Sale of Town-Owned Property Legally Described as Lot 14, Block 79, Unit A, 909 Teocalli Avenue, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to Elizabeth Philbin for the Sale Price of \$275,000.00.

Schmidt read the title of the ordinance. He confirmed proper public notice had been given. Philbin thanked the Council for the opportunity. Schmidt closed the public hearing.

Dujardin moved and Petito seconded a motion to approve Ordinance No. 16, Series 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

9) Ordinance No. 17, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Sale of Town-Owned Property Legally Described as Lot 14, Block 79 Unit B, 911 Teocalli Avenue, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to Chelsea Dalporto- McDowell for the Sale Price of \$275,000.00.

Schmidt read the title of the ordinance, and he confirmed proper public notice had been given. Dalporto-McDowell thanked the Council. The public hearing was closed.

Petito moved and Bradley seconded a motion to approve Ordinance No. 17, Series 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

NEW BUSINESS

1) Ordinance No. 18, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Sale of Town-Owned property Legally Described as Lot 5, Block 79, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to Brice and Karen Hoskin for the Sale Price of \$40,000.00.

Schmidt read the title of the ordinance. Yerman updated that the next three ordinances reflected the results of the lot lotteries. Ben Blackwood was present, and he thanked the Council.

Mitchell moved and Petito seconded a motion to set Ordinance No. 18, Series 2019 to public hearing on April 15th, 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) Ordinance No. 19, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Sale of Town-Owned property Legally Described as Lot 13, Block 79, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to Tara Hiteman for the Sale Price of \$30,000.00.

Schmidt read the title of the ordinance.

Dujardin moved and Haver seconded a motion to set Ordinance No. 19, Series 2019 to public hearing on April 15th. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

3) Ordinance No. 20, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Sale of Town-Owned Property Legally Described as Lot 2, Block 80, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to Benjamin Blackwood for the Sale Price of \$65,000.00.

Schmidt read the title of the ordinance. Yerman described the location of the lot.

Petito moved and Dujardin seconded a motion to set Ordinance No. 20, Series 2019 to public hearing at the April 15th meeting. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

4) Purchase Agreement for the Kikel Parcel A from the Crested Butte Land Trust for a Purchase Price of \$530,000.00.

Yerman reported the agreement was for the purchase of Kikel Parcel A. There would be a secondary ordinance that would involve the transfer of the covenant on the thirty acres that were currently encumbered by the conservation easement. The easement would stay in place, but it would need to be transferred. The purchase price would be funded from the real estate transfer tax.

Noel Durant, Executive Director of the Land Trust, provided background on the parcel. He reviewed the intent behind Kikel A and information on the financing. There had been an increase in recreation and a decrease in funding for management. The parcel was critical to managing recreational use in the corridor. Yerman summarized that Town would own the land, and the Land Trust would hold the easement. He referenced an email from John Hess. Yerman affirmed the importance of reserving the opportunity for presence in the valley to help with management in the future.

Honeydew Murray - Neighbor to the parcel since 1972

- She was concerned about the access to a stated guardhouse.
- Her idea was to think about the possibility of someone commuting daily.
- She was concerned about the road and electricity.
- Durant responded to Murray's points.

The discussion became detailed around what building might exist on the parcel. Schmidt asked Durant about the \$530,000 used for the Long Lake Parcel. Durant described the plan for the current budget. Schmidt related the expenditure of the money to affordable housing.

Dujardin moved and Mitchell seconded a motion to approve the purchase agreement for the Kikel Parcel A from the Crested Butte Land Trust for a purchase price of \$530,000. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

5) Purchase Agreement with Bywater LLC for a Duplex Located on Lot 6, Block 76 for a Purchase Price of \$671,000.00.

Yerman summarized the purpose of the agenda item. He explained that if the units did not sell after nine months, the Town would have the opportunity to purchase. They were not seeing a huge influx of desire for this lottery. Ashley UpChurch was curious whether people were more interested in renting than buying.

Dujardin moved and Mitchell seconded a motion to approve the purchase contract for a duplex located on Lot 6, Block 76 for a sales price of \$671,000 and authorizing the Town Manager to execute the contract and any subsequent changes to be approved by the Town Attorney. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

6) Ordinance No. 21, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Amendment of Land Use Conditions and Restrictive Covenants.

Schmidt read the title of the ordinance. Yerman explained there was a restrictive covenant from the 80s on an ADU. Yerman outlined the compromise that would allow a unit to be occupied by the business owner.

Dujardin moved and Petito seconded a motion to set Ordinance No. 21, Series 2019 for public hearing on April 15th. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

7) Discussion of Proposed Rule Regarding Waters of the United States.

Sullivan informed the Council there was rulemaking to change the definition of waters of the United States (WOTUS) under Federal law. He reviewed the components, including the elimination of the significant nexus test. QQ did not approve of the change; they wanted to keep the significant nexus test. Sullivan then defined ephemeral waters. Sullivan reported on the topic of irrigation ditches. He explained the points made by Waterlaw related to irrigation ditches. Sullivan said Town could rely on QQ for representation. Also, Waterlaw asked their clients to sign off on their letter. He said Town could actively support one or the other, or the Town could write a letter directly. Sullivan stated they did not necessarily need to do anything. Dujardin reported on QQ's position. MacDonald pointed out that HCCA supported QQ's position. The Council decided not to take action.

8) Discussion of Mayor and Council Compensation.

Schmidt recognized the existing Council would not receive a pay raise for which they voted. He explained any compensation changes would come before the Council as an ordinance. The Council discussed numbers to propose. Dujardin suggested an increase of \$150 per month across the board. Kent Cowherd felt the position was grossly underpaid and that invited low effort. Dujardin agreed with Cowherd. Mitchell thought Town should get closer to the average. The Council agreed to consider \$150 across the board in an ordinance at the next meeting.

LEGAL MATTERS

Sullivan mentioned the Trailhead Children's Museum. The owner of the building, where the museum was located, refused to sign a restrictive covenant that memorialized BOZAR's approval from last year, and the owner would not allow the director of the Museum to sign the restrictive covenant. Sullivan sent an email indicating the Town would have to take some kind of action.

COUNCIL REPORTS AND COMMITTEE UPDATES

Will Dujardin

- He covered for Haver at the Chamber meeting. They were still looking for Ride the Rockies volunteers, and snow would affect parking. The Fat Bike Worlds event was a success. Crafted was under budget. The Chamber would not put on the Fat Tire 40 for Bike Week. They were looking into a healthcare partnership.
- He went to a Mountain Express meeting. They picked four new bus designs, which he listed. They were experiencing holiday numbers, on average, every Saturday. Mountain Express would still provide service to Judd Falls.
- Attended Upper Gunnison River Water Conservancy District meeting. The area not in a drought anymore. Blue Mesa could be filled up to 7/8's full. Drought contingency planning had been agreed upon. They approved \$150,000 in grants, including grants to the Slate River Working Group and Shady Island Park. They would have a new website. Ian Billick updated on weather stations. Their water management planning committee would be moving into Phase 2.
- CC4CA asked for endorsement of HB1261. No one on the Council voiced disagreement to support.

Candice Bradley

- Went to Creative District meeting. Local artists made good points on how the Creative District, under the Center, would open up opportunities for grants and community artwork.

Chris Haver

- Attended Gunnison Valley Regional Housing Authority meeting. They were working on the wording of deed restrictions in Mt. Crested Butte. The County chose Gatesco for a build in Gunnison. The housing plan had not yet been adopted.
- Regarding RTA, the mechanic had been a benefit. TAPP would be marketing the Houston flight. Two new busses would be arriving.

Paul Merck

- Cathie Pagano nominated the STOR Committee for a planning award. They could run into conflicts of whom needed the money and when.
- He would have a TA meeting on the 11th, and he would call into the meeting.

Laura Mitchell

- Met with Scott Truex about RTA, and she attended the RTA meeting. Truex pointed out RTA was moving 1,000 people a day.
- Met with Kent Myers about airline load factors. Spring and summer were trending the same as last year.
- Mountain Express moved 2,121 passengers from CB South, which was up 30% from last year.

Jackson Petito

- Went to Housing Foundation meeting last Wednesday. They did housecleaning work. There were exciting opportunities, mostly in Gunnison. They were considering changing their name because they were confused with the Housing Authority.

Jim Schmidt

- Went to the housing meeting with Haver. It was really good to see the jurisdictions in the county doing housing.
- Met with Tim Baker and Erica Mueller. He asked if they would do anything different for summer. They did not have any big plans. They would be taking Twister down.
- He had dinner with the County Attorney.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

As follow up to the work session, the Council was considering going ahead with the \$197,000 left from Whatever USA. MacDonald clarified Staff was looking for direction moving forward with pursuing bids. Haver acknowledged they were in an upturn financially, and expenses were outpacing income. Hansen described the locker room solution in Telluride. Merck recognized they needed changing rooms at a minimum. Petito agreed with Merck and wanted to see the option that would include second floor seating. Haver affirmed he was in favor of the project. Merck wanted to see the numbers. He did not think they had to stay within rigid parameters. MacDonald cautioned the Council they were adding costs. Hansen identified that they wanted to address the need.

Schmidt and Dujardin volunteered for the advisory committee to choose the consultant on the Climate Action Plan.

Petito would be moving to CB South and would be eligible for Council through May. The Council determined Petito should serve as long as possible.

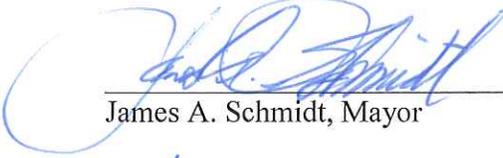
MacDonald brought up food waste on snacks and called attention to the effort to eliminate Styrofoam and plastic plates. Hummus, cheese, grapes, and chocolate were all suggested snack items.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

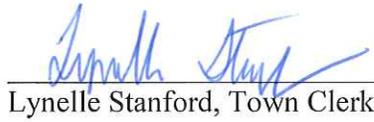
- Monday, April 8, 2019 - 6:00PM Council Meets as Planning Commission
- Monday, April 15, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, May 6, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, May 20, 2019 - 6:00PM Work Session - 7:00PM Regular Council

ADJOURNMENT

Mayor Schmidt adjourned the meeting at 10:06PM.



James A. Schmidt, Mayor



Lynelle Stanford, Town Clerk

(SEAL)

