

**MINUTES**  
**Town of Crested Butte**  
**Regular Town Council Meeting**  
**Monday, July 15, 2019**  
**Council Chambers, Crested Butte Town Hall**

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

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

Staff Present: Town Manager Dara MacDonald, Town Attorney John Sullivan, and Community Development Director Michael Yerman

Town Clerk Lynelle Stanford, Finance Director Rob Zillioux, and Public Works Director Shea Earley (for part of the meeting)

Schmidt expressed condolences, deep sadness, and thoughts for the loss of Diner.

**APPROVAL OF AGENDA**

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

Merck arrived at the meeting after the motion and did not vote. He voted on all motions after approval of the agenda.

**EXECUTIVE SESSION**

Schmidt 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) having to do with Block 76 and affordable housing.

Haver moved and Magner seconded a motion to go into Executive Session for that purpose. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council went into Executive Session at 7:04PM. They returned to open meeting at 7:48PM. Mayor Schmidt made the required announcement upon returning to open meeting.

**CONSENT AGENDA**

- 1) July 2, 2019 Regular Town Council Meeting Minutes.
- 2) Approval of Contract for Old Town Hall Elevator Project.

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

### **PUBLIC COMMENT**

Leslie Nichols - Superintendent of the School District

- The school board met tonight and reviewed the language recommendations (in the IGA). The board as a whole felt really good.
- The Town waiving ROAH on their unit was much appreciated by the school board.
- They hoped to reach a complete draft of the IGA soon.
- They would keep the positive relationship going.
- She confirmed they started digging up the track.

Leah Williams

- She thanked the Council for the time they put in.
- As Town was becoming more crowded, she raised concerns about bikes on the sidewalks.
- She provided a picture from Durango showing an example of a dismount zone.

Kent Cowherd - 901Teocalli

- He offered praise for the construction progress in Block 76.

### **STAFF UPDATES**

- Stanford announced candidate packets would be available July 29<sup>th</sup>, could be circulated beginning August 7<sup>th</sup>, and were due August 30<sup>th</sup>.
- Schmidt mentioned that it was good to see the pirate park going up.
- Schmidt suggested September 24<sup>th</sup> or 30<sup>th</sup> for the next intergovernmental dinner.
- He reminded the Council of the Standard Mine update on July 17<sup>th</sup> at 2PM and the GMUG forest plan revision public meeting on Thursday in Gunnison.

### **PUBLIC HEARING**

**1) Ordinance No. 30, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Sale of Town-Owned Property Legally Described as Plat of Jebez Townhouses Lot 6, Block 79, Replat of Blocks 79 and 80 Paradise Park, Town of Crested Butte, County of Gunnison, State of Colorado Reception No. 659963 Unit B to Jeff Koether for the Sale Price of \$275,000.00.**

Schmidt read the title of the ordinance. Yerman explained that the first buyer was unable to close and Koether was the alternate. Schmidt confirmed proper public notice had been given. He opened the public hearing.

Jeff Koether

- He introduced himself and reviewed his history in the area.

No one else from the public commented, and the public hearing was closed.

Merck moved and Dujardin seconded a motion to pass Ordinance No. 30, Series 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**2) Ordinance No. 31, Series 2019 - An Ordinance of the Crested Butte Town Council Amending Ordinance No. 1-2019 to Add an Exception to the Temporary Moratorium for the Demolition of Any Non-Historic Multi-Family Structure of Three or More Units, All Non-Historic Commercial Structures, and the Partial Demolition of Less Than 25% of Any Non-Historic Structure Within the Town of Crested Butte.**

Schmidt confirmed proper public notice had been given, and he read the title of the ordinance. Yerman stated the ordinance was to lessen the moratorium. He reviewed the exceptions made by the ordinance and the reasons. Staff would set up another work session to vet what came from the work session last week. Merck wondered why non-historic structures in general were being considered for demolition. Yerman spoke regarding commercial structures.

Schmidt opened the public hearing.

Kent Cowherd

- He wondered if the moratorium was being rescinded by the ordinance. Yerman explained the ordinance was an amendment to the moratorium.

Schmidt closed the public hearing. There was no further Council discussion.

Mitchell moved and Merck seconded a motion to approve Ordinance No. 31, Series 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**NEW BUSINESS**

**1) Resolution No. 13, Series 2019 - A Resolution of the Crested Butte Town Council Repealing Resolution No. 11 and Submitting to the Electorate of the Town Of Crested Butte a Question Seeking Authority to Increase Taxes on the Sale of Cigarettes and Other Tobacco and Nicotine Products.**

Zillioux explained the changes this resolution made from the previously passed resolution. This resolution eliminated the tax on delivery devices. Products that contained tobacco and nicotine would be taxed. MacDonald recognized this resolution as a compromise. Schmidt reminded it was up to the voters. Dujardin supported the previous resolution, but he thought it was worth passing this one if it helped other Council members support the tax. Haver asked what the problem was they were trying to solve. Schmidt stated tobacco caused health problems. He thought it could do some good. Dujardin identified they were trying to discourage the use of tobacco and nicotine

products by youth. Magner agreed with Dujardin, and she appreciated the compromise. Haver learned that vaping was the issue with youth. Haver presented solutions that could come from a vote of the Council, such as raising the age and banning vaping products. He recommended going to the students. Haver was not in favor of the tax.

Emily Mirza - Representing GCSAPP

- They supported a multi-prong approach.

John Penn

- He thought 18-year-olds were adults.
- He would not be able to survive with the rules and laws being proposed.

Robin Lakoski

- She worked in the school for the last two years.
- She saw behavior changes from hour to hour and scary stuff with undeveloped brains.
- She was on track with any help they could get in taking it away from young kids.

Emily Mirza - Representing GCSAPP

- They used the lens of positive youth development.

Magner thought it was great to involve the youth. The data was irrefutable and clear that nicotine was harmful. She was on board with the resolution and with the public outreach proposed by Haver. Schmidt acknowledged this resolution excluded taxing delivery systems. MacDonald defined tobacco products as presented in the resolution.

Haver made a motion to amend the resolution to solely tax nicotine vaping related products but no other tobacco products. The motion failed for lack of second.

Dujardin moved and Merck seconded a motion to approve Resolution No. 13, Series 2019. A roll call vote was taken with Dujardin, Merck, Mitchell, Magner, Schmidt, and Bradley voting, "Yes," and Haver voting, "No." **Motion passed.**

## **2) Authorization of the Crested Butte Town Council to Allow the Mayor to Sign a Letter Providing Comments on the GMUG Forest Plan to the United State Forest Service.**

Yemma explained the Forest Service released their working draft of the forest plan, which provided a first glimpse of how the forests would be managed. She outlined past actions on which the Town had already engaged. Schmidt had a problem with when they said no and did not give people an option of what to do. He thought they needed a sentence that would provide positive solutions. Yemma stated they were asking to be a part of discussions. MacDonald did not think the letter was saying no to anything. Dujardin thought it should be mentioned in the beginning of the letter that Town was a cooperating agency. Yemma suggested language for the letter in response to Dujardin's

point. The Council agreed with Yemma's edit. It was the only amendment to the letter as presented in the packet.

Mitchell moved and Merck seconded a motion to authorize the Mayor to sign the attached comment letter with the suggested amendment on the GMUG's Forest Plan Revision. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**3) Ordinance No. 29, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Transfer of Town-Owned Property Legally Described as Lot 6 Block 78 and Lots 4, 10, and 11 Block 79, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to Bywater, LLC for the Construction of Affordable Housing.**

Yerman stated the ordinance was for Phase 2 to release the property to Bywater LLC. However, there was not adequate bond in place based on what was required by the contract. Staff recommended Town put the project out to bid again, which would delay it for at least a year. He recommended they continue down the path with Phase 1.

Schmidt questioned Wisian regarding the bond. Schmidt asked what happened to the checks put down by businesses. He also wondered when they could expect the bond. Wisian listed issues with getting the bond. They were not in a normal place of business. Merck appreciated the vigor and pace demonstrated so far. Sullivan agreed with Yerman regarding not moving forward with Phase 2 at this time.

Dujardin asked whether the market would open up if Town required bond for 100% of the value rather than 120%. Wisian said the natural arrangement was the problem; it was a relationship that did not exist in the bond market. Schmidt questioned the implications to Phase 2, which were explained by Yerman and Wisian. Dujardin said they had to maintain fairness. He thought it was heartbreaking, and Schmidt and Merck agreed. Sullivan stated that everything indicated there would not be a bond in two weeks. Yerman concurred with Sullivan and added that it would not be in the amount that would be satisfactory. MacDonald reminded the Council that Town was a public entity. She was not comfortable proceeding with Phase 2 unprotected. She did not recommend the Council set the ordinance for public hearing.

Magner made a motion that Ordinance No. 29 not be set for public hearing. Schmidt seconded the motion, which after discussion he later withdrew.

A member of the public suggested that businesses could raise funds. The discussion continued with possible solutions for the bond. The Council decided to set the ordinance for public hearing to provide more time to work out the issue pertaining to the lack of a bond.

Merck moved and Dujardin seconded a motion to set Ordinance No. 29, Series 2019 to public hearing on August 6<sup>th</sup>. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**4) Ordinance No. 32, Series 2019 - An Ordinance of the Crested Butte Town Council Approving the Lease of 808 9<sup>th</sup> Unit 1 (Town Owned Building) to Chris Wiig.**

Zillioux summarized the circumstances that led to the unit becoming available.

Merck moved and Dujardin seconded a motion to set Ordinance No. 32, Series 2019 for public hearing at the August 6<sup>th</sup> meeting. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**5) Ordinance No. 33, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Release of Trail Easement and Bridge Easement Upon Lot 6 of the McCormick Ranch in Exchange for a Replacement Trail Easement Across Lot 6.**

Yerman reviewed the reasoning for the ordinance. He identified it as a clean-up item that legally described the actual location of the trail. Attorney David Leinsdorf affirmed the hope was that the ordinance would be set for public hearing.

Dujardin moved and Mitchell seconded a motion to set Ordinance No. 33, Series 2019 for public hearing on August 6<sup>th</sup>. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**6) Resolution No. 12, Series 2019 - A Resolution of the Crested Butte Town Council Amending Town of Crested Butte Affordable Housing Guidelines Adding Section 8 Regulations for Employer Rentals Units to Part III Purchasing Affordable Housing.**

Yerman recommended the Council continue the resolution to August 6<sup>th</sup>. The Town and Housing Authority were considering a comprehensive update to the guidelines. Schmidt asked how the guidelines would pertain to the school build. Yerman stated they were creating their own policies. Dujardin thought they should open up the conversation more on the guidelines. He heard concerns on protections for the employees. Yerman agreed they wanted to hear from the business community.

Mitchell moved and Dujardin seconded a motion to continue Resolution No. 12, Series 2019 to the August 6<sup>th</sup> meeting. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**7) Resolution No. 14, Series 2019 - A Resolution of the Crested Butte Town Council Adopting the Applicable Provisions of the Uniform Election Code of 1992 for the Coordinated Election to be Held on November 5, 2019 and Authorizing the Town Clerk to Enter Into an Intergovernmental Agreement with the Gunnison County Clerk and Recorder Concerning the Administration of Such Election.**

Schmidt described the resolution as housekeeping.

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

#### **8) Appointments to Boards and Committees.**

MacDonald wondered if anyone heard from Coldharbour. Merck said he would attempt to communicate. Magner and Haver discussed the Chamber meetings, and Magner agreed to take Haver's position on the Chamber Board. Dujardin said that CC4CA was looking for more involvement with the policy committee. Dujardin recommended Mel Yemma be appointed. MacDonald affirmed her appointment. Magner assumed Petito's positions on the Valley Housing Fund and Proclamation Committee.

Merck moved and Dujardin seconded a motion to appoint Mel Yemma to the CC4CA policy committee and to appoint Mallika to the Valley Housing Fund and the Chamber and the Proclamation Committee. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

#### **9) Discussion and Possible Action Regarding Gatesco's Extension Request to the Board of County Commissioners for Submittal of a Preliminary Plan Application.**

MacDonald updated that the Town learned last week that Gatesco submitted an application for an extension for the preliminary plan. The Crested Butte and Mt. Crested Butte Councils came to some consensus on three additional conditions imposed on approval of the preliminary plan. She summarized points from the letter in the packet from Gatesco's attorneys. Consideration of the extension was scheduled before the Board of County Commissioners prior to the next Council meeting. Schmidt had questions regarding the water testing. Magner identified the main reason cited was they wanted to develop their Gunnison project first. Dujardin thought they should meet with Gatesco. Haver was disappointed there had been six months of silence. Schmidt questioned the duration of the extension. He thought the most important thing was the water testing.

David Leinsdorf

- It made no sense to give Gates another year after he had done nothing.

Kent Cowherd

- There had been no water testing or progress.
- Gary Gates said they could not develop a project that contained less than 180 units.
- This extension was an unnecessary delay.
- He thought Town should write a letter to discourage the extension.

George Gibson - 31 Powderview Drive

- He commented on the timeline. With an extension, Gates would have two years for the preliminary plan. They were looking at a minimum of four years from now to have a residence.
- It was madness he had not yet drilled a well or done the first basic water test.

#### Ashley UpChurch

- She was not representing an organization.
- She did not see that Gates had not done anything. It was not his fault that the project had stalled.
- She was confused why no one was in support of the project.
- She would love to see 180 units out there.

Merck was in favor of process. Schmidt recognized that 156 units would be the largest project approved in the County. MacDonald summarized the issue. They should take some time before issuing another RFP. She recommended the MOA parties have a public outreach project to provide more defined parameters to the developer. Magner acknowledged the community did not want the proposal as proposed. The need for affordable rental housing could not wait. They needed to move on property sooner rather than later. They wanted to support the business community. She did not see how an extension would benefit the community. Dujardin did not think they needed to comment on the County process. He thought that commenting would make the rift deeper. They needed to trust the process. Mitchell assumed the County would approve the extension. She agreed they should not stir the hornets' nest. Schmidt would want to send a letter communicating not to extend beyond the end of February.

#### David Leinsdorf - 3 Treasury Hill Road

- A compromise made no sense at all.
- He had done zilch since the consensus reached with Mt. Crested Butte.
- They hoped Town would write a letter of opposition.
- Gates had not shown good faith or any progress at all.

#### Robert McCarter - 1251 Skyland Drive

- Gates was basically asking for a mulligan, and he had not taken the first swing. He did not deserve a mulligan.
- He had not done one single water test.
- An extension would delay the deal for years.
- Starting over would make it happen faster.

The Council discussed sending a letter to the County. Haver did not feel 100% about sending a letter. He did not know what it would do. Dujardin cited an example of animosity between Town and the County. Schmidt was willing to send a letter asking the County to deny the extension. Magner and Mitchell agreed, but no one else did. No one wanted to send a letter supporting the extension. The Council took no action.

#### LEGAL MATTERS

Sullivan asked the Council if there was anything they wanted to discuss. Bradley revisited the bond situation with Bywater. She questioned what the Town's loss would be if something catastrophic happened and the bond amount had been lowered. MacDonald reviewed options and scenarios. After consideration, Sullivan thought the businesses could provide collateral, as suggested by a member of the public. Magner recognized the bond amount was to cover Phase 1 and Phase 2. Yerman identified the issue of mobilization. MacDonald said it was almost inconceivable Wisian could pull the bond together before the public hearing.

## **COUNCIL REPORTS AND COMMITTEE UPDATES**

Will Dujardin

- He met with Carl Castillo, which was productive. They wanted to figure out how to find a balance regarding CC4CA. There was room for them to keep pushing awareness.

Candice Bradley

- She did not have Center or Creative District meetings. The Center meeting was postponed.

Chris Haver

- He went with OVLC to present to Health and Human Services on how to better communicate with the OVLC pillars. It was a good overview of what they were doing. Housing was involved in providing an update. They were going to set them up to work with the economic pillar as well. One group present was Project Hope.

Mallika Magner

- She was intrigued by Norton's notion of a bike share program. She described logistics of the program as they could be applied in Crested Butte. She asked if anyone was interested in Staff exploring the idea.
- She suggested energy be happening to get the bike path to CB South.
- She said affordable rental housing was a huge need. She suggested they look at affordable rental housing in Town and planning for the annexation.

Jim Schmidt

- Discussion at the housing meeting was focused on two projects in the County.
- Went to mayor/managers meeting in Pitkin. Blue Mesa was within three feet of full.
- The Little Blue Canyon project would be put off a year.
- Myles Rademan was in Town. He would be bringing 60 to 70 people from Park City on a leadership trip. Schmidt had two calendar items: Wednesday night, September 4<sup>th</sup>, ten restaurants were booked for meals with Council members and speakers and Thursday morning there would be multiple presentations at The Center for the Arts. Then, there would be break out groups and a historical tour along with a picnic.

Will Dujardin

- Attended Upper Gunnison River Water Conservancy District public meeting on the economic impacts of drought land management.

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

None

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

- *Tuesday*, August 6, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- *Tuesday*, August 13, 2019 - 4PM to 6PM Retreat to Discuss Budget for 2020
- *Monday*, August 19, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- *Tuesday*, September 3, 2019 - 6:00PM Work Session - 7:00PM Regular Council

Schmidt reminded of the meeting on the Standard Mine clean-up.

#### **EXECUTIVE SESSION**

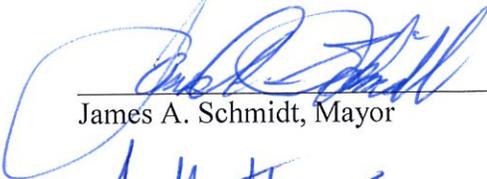
Schmidt read the title of the Executive Session: for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4) regarding the IGA with the school and the Kikel Parcel.

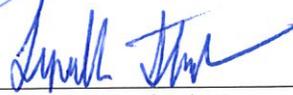
Mitchell moved and Dujardin seconded a motion to go into Executive Session. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council went into Executive Session at 11:02PM. They returned to open meeting at 11:33PM. Mayor Schmidt made the required announcement upon returning to open meeting.

**ADJOURNMENT**

Mayor Schmidt adjourned the meeting at 11:34PM.

  
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James A. Schmidt, Mayor

  
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Lynelle Stanford, Town Clerk

(SEAL)

