

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, November 21, 2016
Council Chambers, Crested Butte Town Hall

Mayor Michel called the meeting to order at 7:02PM.

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

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

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

APPROVAL OF THE AGENDA

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

CONSENT AGENDA

- 1) November 7, 2016 Regular Town Council Meeting Minutes.**
- 2) November 14, 2016 Special Town Council Meeting Minutes.**
- 3) Resolution No. 38, Series 2016 - Resolutions of the Crested Butte Town Council Approving the Amended Condominium Map of Poverty Gulch Condominiums.**
- 4) Comment Letter to the White River National Forest Regarding the West Maroon Trailhead.**
- 5) Resolution No. 43, Series 2016 - Resolutions of the Crested Butte Town Council Approving the Town Attorney Representation Letter.**
- 6) Resolution No. 44, Series 2016 - Resolutions of the Crested Butte Town Council Affirming Banking Powers of Town of Crested Butte Staff.**

Schmidt removed item #5 and added it to New Business, and he recused himself from voting on the Consent Agenda because of item #3. MacDonald stated that item #3 was modified, and she recommended it be moved to New Business. Schmidt returned to the meeting because the item he recused himself for was removed from the Consent Agenda.

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

PUBLIC COMMENT

None

STAFF UPDATES

Lois Rozman

- She provided 3rd quarter financials to the Council. She confirmed for Schmidt there were no surprises.
- Mason said the Staff had done a good job, and the only items over budget were decisions made by Council.

Rodney Due

- Attended a DOLA hearing last week. There was less money available than what was projected, and there were more requests than money. He anticipated that Town would be funded, but he didn't know how much. He thought they might need to bifurcate the project.
- There was a Gunnison County Environmental Health Board meeting last Thursday. He learned there were five unpermitted homes constructed in the watershed at Irwin. There had also been a road constructed.

Bob Gillie

- He planned on including the first reading of the ordinance for the adoption of the 2015 IBC on the December 5 agenda.
- Sixth Street Station would be in front of BOZAR on the 29th for concept review.
- Ladoulis questioned a transaction on a building at 2nd and Elk. Gillie had not heard from anyone lately on the building.

Janna Hansen

- Submitted the GOCO grant application for the Town Park playground renovation project. Brandon Clifford, an underwater archeologist, was partnering with them to create an authentic pirate design.
- Holiday wreaths arrived last week, and they would go up next week.
- They were hoping to make ice this weekend at the ice arena.

Mike Reily

- Dan Batteiger became a POST certified driving instructor. He was hired by the Fire District to teach a driving course, and his class was amazing.
- Issued 178 winter parking warnings on the first day. The number of warnings had been reduced since then.

Lynelle Stanford

- Mentioned upcoming special events.

Dara MacDonald

- The RFP for trash and recycling services was submitted to the paper today.
- She had been working with the facilities manager on leases. She expected to spend time in the December 5 work session discussing how to proceed. Lease rates would be the hot topic.
- The Fire District pulled back on conversations concerning a joint facility, so plans would be put on hold for now.
- Reminded the Council of lunch on Wednesday at Noon at the public works shop.

PUBLIC HEARING

1) Ordinance No. 14, Series 2016 - An Ordinance of the Crested Butte Town Council Adding a New Chapter 10, Article 12 to the Crested Butte Municipal Code for the Purpose of Regulating Certain Types of Panhandling.

Michel confirmed proper public notice was given. Belkin explained the ordinance came as a response to the ACLU regarding the Browne case as referred to in his memo in the packet. There was a section in the Code that was cut out to be consistent with the law. The meeting was opened to public comment. There was no public comment, and the public hearing was closed. There was no further Council discussion.

Schmidt moved and Mason seconded a motion to approve Ordinance No. 14, Series 2016, an ordinance of the Crested Butte Town Council adding a new Chapter 10, Article 12 to the Crested Butte Municipal Code for the purpose of regulating certain types of panhandling. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

NEW BUSINESS

1) Resolution No. 38, Series 2016 - Resolutions of the Crested Butte Town Council Approving the Amended Condominium Map of Poverty Gulch Condominiums.

Schmidt recused himself and left the room.

MacDonald provided background explaining that physical changes were made to the building over the years, and the plat had not been amended. The plat needed to be updated to reflect reality. She explained there was a plat in the packet that covered the whole property that would need to be signed before it was recorded. However, in order for a transaction to go through, a plat that would require signatures from only two lien holders for the smaller building would be used. MacDonald told the Council the resolution would approve two plats: the smaller plat recorded first and the second plat that would be recorded to replace the existing plats. Belkin explained further that the

buyer had a rate lock that would expire, and the signed incremental plat would help him to close.

Ladoulis moved and Mitchell seconded a motion to approve Resolution No. 38, Series 2016. A roll call vote was taken with all voting, "Yes," except for Schmidt who had recused himself and did not vote. **Motion passed unanimously.**

2) Resolution No. 39, Series 2016 - Resolutions of the Crested Butte Town Council Adopting the Mill Levy for the Town of Crested Butte, Colorado for the Fiscal Year 2017, Beginning the First Day of January 2017 and Ending the Last Day of December 2017.

Ladoulis moved and Mitchell seconded a motion to set Resolution No. 39, Series 2016 for public hearing. **Motion passed.**

3) Resolution No. 40, Series 2016 - Resolutions of the Crested Butte Town Council Adopting the Budget and Appropriating Sums of Money for the Town of Crested Butte, Colorado for the Fiscal Year Beginning the First Day of January 2017, and Ending the Last Day of December 2017, Estimating the Amount of Money Necessary to be Derived from Revenue Sources, and Setting Forth the Total Estimated Expenditures for Each Fund.

Schmidt asked the Council if they wanted to change the policy of not reimbursing mileage for meetings in Gunnison. He suggested they add \$2K to the Council's travel budget to cover the cost of traveling to Gunnison. Rozman confirmed it had been policy, and employees were not reimbursed either. Michel agreed with Schmidt that a reimbursement would be helpful. Ladoulis thought it seemed appropriate.

Schmidt questioned if they needed to change the amount projected from the DOLA grant from \$1M, and if the fire ring needed to be decided upon in paving the parking lot at 6th and Elk. Both items would be finalized later.

Schmidt moved and Mitchell seconded a motion to set the amended, adding \$2K to the Council Travel Fund, Resolution No. 40, Series 2016 for public hearing on December 5, 2016. **Motion passed.**

4) Resolution No. 41, Series 2016 - Resolutions of the Crested Butte Town Council Adopting Certain Fees and Charges for the Fiscal Year 2017.

Mitchell moved and Mason seconded a motion to approve Resolution No. 41, Series 2016. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

5) Ordinance No. 15, Series 2016 - An Ordinance of the Crested Butte Town Council Amending Section 13-1-150 of the Crested Butte Municipal Code to Increase the Monthly Service Charge for Sewer Service to \$35.50 Per Month Per EQR and

Setting the WWTW Pretreatment Charge to \$13.75 Per Month Per Applicable EQR.

Mason moved and Ladoulis seconded a motion to set Ordinance No. 15, Series 2016 for public hearing. **Motion passed.**

6) Ordinance No. 16, 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, Sales Tax Fund and Conservation Trust Fund.

Ladoulis moved and Mitchell seconded a motion to set Ordinance No. 16, Series 2016 for public hearing. **Motion passed.**

7) Ordinance No. 17, Series 2016 - An Ordinance of the Crested Butte Town Council Amending Chapter 6-2 of the Crested Butte Municipal Code Providing for a Temporary Reduction to Certain Portions of the Business and Occupation Licensing Tax for Fiscal and Calendar Year of 2017; and Providing the Automatic Repeal Thereof Effective on the First Day of January, 2018.

Schmidt moved and Mason seconded a motion to set Ordinance No. 17, Series 2016 for public hearing at the December 5 Council meeting. **Motion passed.**

8) Ordinance No. 18, Series 2016 - An Ordinance of the Crested Butte Town Council Amending Section 11-1-60 of the Crested Butte Municipal Code to Include Requirements for the Issuance of Snow Management Permits.

Ladoulis moved and Mitchell seconded a motion to set Ordinance No. 18, Series 2016 for public hearing. **Motion passed.**

9) Resolution No. 43, Series 2016 - Resolutions of the Crested Butte Town Council Approving the Town Attorney Representation Letter.

Schmidt wondered about the travel costs and hourly fees applicable when an attorney would need to substitute for Belkin. Belkin stated there would be no charge. He introduced Mary Elizabeth, another attorney from the firm he was joining. Belkin assured the Council that it was good for the Town. Schmidt asked about a water attorney. Belkin said there would be opportunities to use the firm, and they could probably save money for equal representation. Mary Elizabeth offered to answer questions. Belkin told the Council there were six attorneys in their municipal law practice, and the Council would be pleased.

Mason moved and Mitchell seconded a motion to approve Resolution No. 43, Series 2016. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

LEGAL MATTERS

Belkin reported the Mt. Emmons situation was day to day, and he hoped to have news at the next meeting.

Regarding the resolution passed by the Council on the plats, it would allow the person to close on his first home. There were a lot of moving parts to make it happen, and the Council approved it.

COUNCIL REPORTS AND COMMITTEE UPDATES

Laura Mitchell

- Attended a Mountain Express meeting. They were buying a big truck. Mason clarified it had a crane and tools to work in the field. Staff indicated the new truck was critical.
- The Mountain Express meeting was on the same day as the Chamber meeting. She talked to Dave Clayton, and they were disappointed about Butte Bucks.

Roland Mason

- Attended a Mountain Express meeting. They talked about the Judd Falls turnaround. They were considering how to haul bikes, including a bike valet that could be a private-public partnership.
- Attended a RTA meeting. They were getting a new senior van.
- RTA had strategic transit and senior mobility plans. They heard that they should be thinking about how they could light up the bus stop.
- Winter air service was picking up, and the airlines were looking pretty good.
- Greg Salsbury, President at Western State Colorado University, agreed to sit on the Air Alliance Board. Michel explained he would be a non-voting member, but Western could contribute money in order to vote.

Jim Schmidt

- The Gunnison County Land Preservation Board met. They discussed three grant applications and awarded all three: 1) Project to preserve a ranch at Arrowhead; 2) Land preservation piece at the Gothic town site; and 3) Tentative approval for a project in 2018 near Town.
- Housing Director, Karl Fulmer, resigned effective January 1. The Board was concerned with holding everything together, and he was concerned about going into the year without a director. He mentioned Paula Swenson as a possible interim director. They already sent out RFPs for a consulting firm to help find a new manager.
- There were two units left in Anthracite Place, and there were three applications submitted.
- The Creative District met, and he wasn't able to make it. Yerman stated the attendance at the meeting was good. They discussed public arts policy. Yerman provided a timeline as it related to efforts coming before the Council.

- The Housing Needs Assessment meeting last week was well attended. There would be a meeting in Crested Butte at the Center for the Arts on the 29th.

Glenn Michel

- Attended RTA meeting.
- Had lunch with two people from CBMR, and there would be no major changes.
- Presented at the Chamber's economic forecast.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Schmidt asked Stanford if there were any applicants for the open Council seat. No one had sent a letter of interest, yet.

Ladoulis brought up the issue of a buyer purchasing multiple housing units to turn into single-family residences. He wanted to be ahead of the issue. He also raised concern of private uses of commercial property on Elk. Schmidt agreed with Ladoulis on the first issue. He saw it happen in Mt. Crested Butte. Michel asked how the Council wanted to proceed. Ladoulis wanted the items added to the list. Mason said they needed a retreat to discuss priorities, and the possibility of a retreat in January was mentioned.

NEW BUSINESS CON'T

10) Presentation by Marcus Lock, Law of the Rockies, Regarding Accessory Dwelling Units and Associated Matters.

Lock named the individuals he was representing: John Kiltz and Christopher Mize. MacDonald explained the appeal was on the enforcement action on two properties. She upheld the notice of violation. Lock then requested to speak to Council, and he threatened litigation. Because of the public interest, it was on the agenda. Lock stated the issue of whether to settle the dispute was with the Council. He implored them to become involved before litigation was filed. Lock provided history of the timeline of the dispute. He said there were 40-50 other deed restrictions from the 1990s. Michel asked if he would take away 50 accessory dwelling units from Town. Lock wanted to resolve the dispute before it escalated to another level. If the case went up through courts, it would come back down. He added that an ordinance could not be applied retroactively. They needed to look at the Code as it existed in the 1990s. Lock provided a definition for the word maintain. Ladoulis thought that the spirit at the time was to give accommodations to homeowners that were building to allow them more density than what would have been considered. Schmidt said the intention was to provide long-term housing for people living in the valley. It was clear to the people who built that they were allowed higher density, and they were given a break in the tap fees. It was important to the Council to provide as much housing as possible. He had no doubt what the intention was. To step backwards with affordable housing seemed like a bad place to go. Mitchell reminded that the deed restriction was in the title. Mason was highly disappointed. It was unfortunate that Lock's clients went this way, and he supported Staff. It was hard to settle when everyone else came into compliance. Mason wanted to

stay firm and support the ordinance. Michel recalled when Council directed Staff to recoup units that were not in compliance. He thought MacDonald did the right thing. MacDonald added they were given six weeks to come into compliance. Michel summarized they would not settle.

11) Resolution No. 42, Series 2016 - Discussion and Possible Action Regarding Proposed Amendment to Pre-Annexation Agreement with Cypress Foothills, LP.

Cameron Aderhold and Marcus Lock were present representing Cypress. Aderhold explained to the Council that most terms were similar to what were previously discussed. They supported what was in front of the Council. Michel asked what was changing and unique from the original pre-annexation agreement. Lock, referring to Yerman's staff report, stated the first seven bullet points had been previously seen. The new items were that Cypress would split the first half of \$50K, up to \$25K, for water court change fees and Cypress would pay for the Town's second party engineer. The second section of bullet points in the staff report was also new.

Town and Cypress discussed relocating the river access to north of Road A. Lock spoke about signage and wetlands, specifically lot set backs. Set back from high quality wetlands would be 50 feet. It would be a 50-foot building set back instead of a lot line set back, which increased the lot sizes for Cypress. Aderhold explained further that lot lines would go right up to the wetlands. Ladoulis questioned the practicalities, and he asked if fences or BBQ pits could be right at the line. He wondered what covenants would protect it. Lock asserted the County did not require a lot line set back. The 25-foot set back from low quality wetlands, and the 50-foot set back from high quality wetlands remained the same. Mason asked where Staff was on it, and Yerman confirmed the Town requirement was 100 feet. Yerman recalled concern from a large segment of the community during the original development proposal about wetlands. The compromise proposed by Lock was that lot lines could extend to boundaries and they would agree to set backs. Schmidt asked if high quality and low quality wetlands were determined. Yerman said the County would review the wetland delineation report. Ladoulis was okay as long as the boundaries didn't extend into the wetlands. Michel didn't want to see the wetlands degraded.

Schmidt questioned who would own the property at the river trail and boat ramp. Yerman pointed out the Town's land on the map. Schmidt questioned the space available for the ramp. Yerman reviewed potential users of the ramp. Schmidt asked about an access road. MacDonald said it would be an improvement from what was existing. Schmidt recognized the HOA would own the bottom of the river, and he asked about the HOA changing the rules. It was explained the developer and Town would engage in a river easement agreement when the Town parcels were conveyed. Lock said there were multiple agreements that would still need to happen. Ladoulis stated that the assumption was the HOA would want to exert control over the use of the river. Lock said their expectations would be set before they purchased. Aderhold affirmed agreements would be recorded against the property.

Next, they discussed signs. Yerman contemplated the sign along Gothic Road as a part of way finding signage. Aderhold described the temporary sign as natural and subtle. Yerman explained that the way finding sign would be the same as others around Town. Schmidt countered that other developments didn't have signs. Michel summarized they didn't want the sign to become a de-facto gate. Aderhold explained they wanted a sense of entry. Michel said a visual would be helpful, and Aderhold agreed to provide.

Schmidt had questions about water regulations, particularly who regulated watering during drought years. It was answered that the Town would regulate. Lock stated there would be dual enforcement authority, which would be binding on the property. The HOA would enforce first. Mason confirmed Town had the ability to turn the water off. MacDonald recognized the mechanism could be problematic.

Schmidt brought the Council's attention to Section 7.3 in the amendment to the pre-annexation agreement. He asked that if there was physically less water, if Town's proportionate share went down. Ladoulis pointed out it was only in reference to six (acre feet) or above. Michel identified the Town was guaranteed six acre-feet no matter what. The discussion continued with differing interpretations. Lock stated the understanding was that in order to drought protect, Town received the first 6 acre-feet. Schmidt noticed two sentences in the section that were opposing each other. Lock said they could add a phrase to clarify that Town would get its first 6-acre feet first.

Next, they discussed providing water to accessory structures and odor controls. Michel asked where the Council was. Yerman informed the Council of an impending deadline, which would cause the agreement to be null and void after the December 5 meeting. He concurred that the original proposed density was 24 units, and they didn't contemplate a density of more than 24 units as it related to providing water. Lock told the Council in everything submitted they contemplated 46 units with respect to water usage.

Mason asked if Staff understood what they needed to look into. MacDonald confirmed what she had heard. Mason specifically wanted to know if someone could put in sod right up to the lot line. If so, he was concerned high quality wetlands would shrink. Mason wanted information on what that meant. Michel told MacDonald to make the Council literate on what they were approving. Regarding the boat launch area, he wanted to make sure they were getting a good amenity that was usable by those who had expectations. Schmidt wanted to know the height of the road deck above the river. Lock stated there would be ample space for boats to travel. Michel was accepting of an integrated way finding sign on Gothic Road. Schmidt wanted to know the size, and Mason didn't want an unusual looking sign. Aderhold agreed to put a plan together. MacDonald asked if the Council was okay with allowing non-limiting accessory dwellings. She confirmed they would pay EQRs. Michel acknowledged the maximum build-out could be 46 buildings. Yerman confirmed the Council agreed to non-deed restricted ADUs. Mason wanted to clarify the question about water and contradictory statements, and Michel wanted to clarify the language in the bottom of the river discussion.

Schmidt moved and Mason seconded a motion to continue Resolution No. 42, Series 2016 to the December 5, 2016 meeting. A roll call vote was taken with all voting, "Yes."
Motion passed unanimously.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, December 5, 2016 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, December 19, 2016 - 6:00PM Work Session - 7:00PM Regular Council
- Tuesday, January 3, 2017 - 6:00PM Work Session - 7:00PM Regular Council

A retreat was discussed for the end of January. Schmidt asked that it be planned for before January 20.

MacDonald told the Council the Executive Session was no longer necessary.

Ladoulis asked about the decision for appointing the new Council member. Stanford explained the details of the process.

ADJOURNMENT

Mayor Michel adjourned the meeting at 10:19PM.



Glenn Michel, Mayor



Lynelle Stanford, Town Clerk (SEAL)

