

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Monday, December 17, 2018
Council Chambers, Crested Butte Town Hall

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

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

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

Water Attorney Scott Miller, Finance Director Rob Zillioux, Community Development Director Michael Yerman, Town Planner Bob Nevins, and Parks and Recreation Director Janna Hansen (for part of the meeting)

APPROVAL OF AGENDA

Schmidt mentioned a change to the agenda. New Business item #4 was moved to just before Ordinance Nos. 28 and 29 in the Public Hearing.

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

CONSENT AGENDA

- 1) **December 3, 2018 Regular Town Council Meeting Minutes.**
- 2) **2019 Services Agreement with the Crested Butte/Mt. Crested Butte Chamber of Commerce.**

Merck moved and Petito 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

- MacDonald pointed out the date of January 25th for the OVPP leadership retreat and that the next intergovernmental meeting would be on February 27th.

- Schmidt questioned Hansen on the Big Mine expansion. Hansen explained that Crested Butte Nordic and West Elk Hockey discontinued moving forward on the Big Mine warming house expansion project.
- Schmidt confirmed Staff had not heard anything regarding Big Air on Elk.
- Cowherd recognized Town was awarded from DOLA, \$405K of the \$800K that was requested.
- MacDonald acknowledged that October sales tax was down.

PUBLIC HEARING

1) Ordinance No. 26, Series 2018 - An Ordinance of the Crested Butte Town Council Amending Articles 1, 2 and 14 of Chapter 16 and Article 15 of Chapter 18 of the Town Code to Add New Criteria for Exclusion of Certain Structures from the Definition of an Historic Building, and to Provide for the Partial Demolition of an Historic Structure Subject to an Approved Rehabilitation and Development Plan. New Business.

Schmidt confirmed there had been proper public notice. Yerman explained that this ordinance created standards for the recycle plan of any deconstructed building, and he outlined additions that were made from the last meeting. Green identified a change to the ordinance in that they should allow the board to approve the deconstruction of a building that was dangerous. There was a discussion on the recycling of materials.

Sue Navy - 324 Gothic

- Tearing down a house was wasteful, even if recycled.
- She wondered if the ordinance was strong enough to prevent buildings from being torn down all over Town.

Yerman responded to Navy's concerns. He elaborated upon what the ordinance accomplished. He told the Council there was no rush to pass the ordinance. Schmidt referred to an email from John Hess. He was happy to continue to the second meeting in January. Green cited concerns that arose in other communities with historic districts.

Haver moved and Dujardin seconded a motion to continue Ordinance No. 26, Series 2018 to the second meeting in January. A roll call vote was taken with all voting, "Yes."
Motion passed unanimously.

NEW BUSINESS

Formerly 4) Settlement and Release Agreements Resolving Any and All Claims and Issues Between the Town and Claimants Related to the Long-term Rental Covenant Asserted in Civil Action No. 2016CV30080.

Green referred to the staff report in the packet from MacDonald. She reviewed background on the agenda item. MacDonald explained that the plaintiffs approached the Town wishing to discuss a settlement after mediation had taken place. The settlement

was in front of the Council. Each plaintiff would make a one-time payment of \$275,000 to the Town's affordable housing fund in exchange for the Town releasing the language in the covenants requiring long-term rentals. Schmidt recalled history of the case, and he thought it was important to pass this agenda item.

Schmidt opened the discussion to the public:

Leslie Baeder - 813 Gothic Avenue

- She asked if the settlement would set precedent. Schmidt said it would not, per the answer he had previously received from Green.

Dujardin was concerned they were not setting the precedent for a high enough price. Cowherd was disappointed they were in this position, but he supported their acceptance of the settlement. Merck agreed with Cowherd. Petito did not think that it felt good and that Dujardin stated his position well.

Mitchell moved and Merck seconded a motion to approve the two Settlement and Release Agreements regarding civil action No. 2016CV30080, the first for Sopris 715, LLC and the second for Christopher D. Mize. A roll call vote was taken with all voting, "Yes," except Dujardin and Petito voted, "No." **Motion passed.**

PUBLIC HEARING CON'T

2) Ordinance No. 28, Series 2018 - An Ordinance of the Crested Butte Town Council Authorizing the Release of Land Use Conditions and Restrictive Covenants.

MacDonald stated both ordinances effectuated the Town's side of the deal. Schmidt confirmed proper public notice had been given. No one from the public chose to comment, and the public hearing was closed.

Cowherd moved and Mitchell seconded a motion to approve Ordinance No. 28, Series 2018. A roll call vote was taken with all voting, "Yes," except Dujardin and Petito voted, "No." **Motion passed.**

3) Ordinance No. 29, Series 2018 - An Ordinance of the Crested Butte Town Council Authorizing the Release Of Land Use Conditions And Restrictive Covenants.

Schmidt confirmed proper public notice had been given. No one from the public commented. The public hearing was closed.

Mitchell moved and Cowherd seconded a motion to approve Ordinance No. 29, Series 2018. A roll call vote was taken with all voting, "Yes," except Dujardin and Petito voted, "No." **Motion passed.**

OLD BUSINESS

1) Discussion on The Corner at Brush Creek Housing Project.

Schmidt spoke with Mayor Barnes from Mt. Crested Butte. They discussed planning a joint work session on January 7th. He identified that the memo discussed by the Council had eight points, and there was elaboration on each point. He read each point. Haver wanted to request the findings report from Mt. Crested Butte. Schmidt referenced an economic analysis that was sent by John O'Neal before the meeting. Cowherd voiced agreement with the three points developed by Mt. Crested Butte.

NEW BUSINESS

1) Update from John Norton with the Gunnison/Crested Butte Tourism Association.

Norton identified the goal of the Tourism Association (TA). They decided to put their chips on summer trails, mountain biking, and steep skiing in the winter, which turned out to be effective. The County Commissioners asked them to become involved in other areas, such as the STOR Committee and business attraction. Norton explained what the TA was doing to support sustainable tourism. Then, he spoke about what they were doing for economic development. Schmidt asked questions on the mission of the TA, their budget, and spy ware. Norton said they wanted to know how people used the valley. The discussion became focused on spy ware. Haver expressed appreciation for efforts of the TA. There was discussion on the role and the work done by the Conservation Corps. Schmidt thought it was important that they kept up on the trails. Schmidt asked Norton to report on Blister. Norton stated Blister was the largest independent gear review company in the world. The TA engaged the owner to move to the valley, instead of moving to Telluride. He said Blister hired local athletes to write reviews. Schmidt asked if the TA was changing its focus because of Vail. Norton was unsure, but they felt responsibility to spend their funds in a way that would help lodging revenue.

2) Resolution No. 29, Series 2018 - A Resolution of the Crested Butte Town Council Approving the Minor Subdivision of Block 76, Paradise Park Subdivision, Town of Crested Butte.

Nevins reviewed the make-up of the block and lots in the re-platted Block 76. Town was able to include Block 76 as part of a larger build in 2019. He outlined public meetings that were held in the past five months. BOZAR voted seven to zero to approve and certify that the Block 76 Minor Subdivision complied with the Code. He explained that the Town Council basically certified BOZAR's approval. Yerman told the Council that BOZAR needed affirmation that the Council wanted to proceed with a build like the one proposed.

Schmidt opened the meeting to public comment:

Leslie Baeder - 813 Gothic Avenue

- She recalled the first meeting at Rainbow Park was heated. She did not think people had been notified of the meeting.
- She felt disregarded at the first meeting, and then the next thing that was decided was the developer and then the architect.
- It felt like it was moving at a high-speed.
- She stated that Town did not follow Colorado law, and she read statutes she believed relevant. Green responded to Baeder's assertions, and she explained the decision in front of the Council.
- Baeder asked the Council to push the reset button and give the community a chance for input and education.

John Wirsing - 115 9th Street

- He agreed with Baeder on how quickly it moved, and his concern was with the process.
- They were making affordable housing unaffordable.
- He encouraged the Council to put on the brakes.

Kat Cooke - 814 Gothic Avenue

- She hoped to see the project go forward.
- She felt informed about the project throughout the process.

Leslie Baeder

- Their neighborhood was for affordable housing.
- She asked the Council to slow down.

Yerman reviewed various notices that had been given and methods used. He showed a slide depicting affordable housing lots to illustrate his point that there was not a lot of availability. He cited that there could be many years of construction in the neighborhood if the project did not happen in 2019. Petito would love to find a way to make the neighborhood feel more heard. Haver questioned notice of the meetings at Rainbow Park.

Jenelle Spedden - 119 9th Street

- Mentioned the notice at her residence.

Leslie Baeder

- She had not heard the sentiment that it needed to be done all at once.

Dujardin acknowledged a lot of people were in favor of what Town was doing on the project, and they were executing the will of the public. Mitchell agreed with Dujardin. Merck thought the meetings were posted properly. He also agreed with Dujardin. Schmidt declared that everyone on Council made a commitment to affordable housing, including himself.

Heli Peterson - 823 Gothic Avenue

- She lived in affordable housing and was for affordable housing.
- She was concerned about the density.
- She felt like they had not been heard.

Dujardin moved and Mitchell seconded a motion to approve Resolution No. 29, Series 2018, the Minor Subdivision re-plat of Block 76, Paradise Park Subdivision, Town of Crested Butte. A roll call vote was taken with all voting, “Yes,” except Petito voted, “No.” **Motion passed.**

3) Discussion on Ride the Rockies coming to Crested Butte June 8, 9 and 10, 2019.

Schmidt explained the reasoning behind the discussion on the event, and he specifically mentioned Whatever USA. MacDonald updated the Council on the meeting that included event organizers and Staff and a second meeting that included the Chamber. Deirdre Moynihan from Ride the Rockies was present at the Council meeting. She explained history of the event in Town and the reasons they wanted to come to Crested Butte. She reviewed logistics of the event and a proposed schedule. Schmidt questioned entertainment for Saturday night. Moynihan said they focused on local entertainment. Cowherd wondered about food trucks in Town, and she said food trucks would only be on the ride route. UpChurch confirmed the Chamber would be working on the event. Nevins voiced concerns about parking, to which Moynihan responded.

4) Ordinance No. 30, Series 2018 - An Ordinance of the Crested Butte Town Council Amending Chapter 16, Articles 1, 5 and 8 of the Crested Butte Municipal Code to Include Definitions and Requirements for Formula Businesses in the “T” Tourist and “C” Commercial Zone Districts.

Nevins summarized the purpose of the ordinance. The ordinance addressed formula retail, formula hotels and motels, and formula restaurants. Nevins read the definition of a formula business. He explained the citizen outreach that had been done. UpChurch had not received comments from businesses on the ordinance. Haver asked for clarification on what would be allowed in specific areas. Cowherd wanted language to include BOZAR on certain points, and Nevins elaborated.

Mitchell moved and Merck seconded a motion to set Ordinance No. 30, Series 2018 for public hearing at the January 7th meeting. A roll call vote was taken with all voting, “Yes.” **Motion passed unanimously.**

5) Resolution No. 30, Series 2018 - A Resolution of the Crested Butte Town Council Adopting Changes and Additions to the 2018 Budget and Appropriations Relative to the Affordable Housing Fund.

Zillioux stated all funds were under budget, other than the affordable housing fund.

Dujardin moved and Haver seconded a motion to approve Resolution No. 30, Series 2018 to amend Resolution No. 64, Series 2017 by changing the Affordable Housing Fund

budgeted expense amount from \$542,299 to \$677,119. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

6) Resolution No. 31, Series 2018 - A Resolution of the Crested Butte Town Council Restating and Renewing Approval of the Development Improvements Agreement and Associated McCormick Ditch Relocation Agreement Affecting Lots 17-27, Block 1; Lots 6-16, Block 12; Lots 1-13 and 30-32 Block 11; and Lots 17-32, Block 2; Town of Crested Butte, Colorado.

Yerman reported on Resolution No. 31 and Resolution No. 32. His staff report in the packet was related to both resolutions. The 1986 improvement agreement between Town and the Kapushions did not cover the relocation of the McCormick Ditch or the extension of the sewer main in Teocalli Avenue. He identified that Town was now the majority owner of the McCormick Ditch. The DIA had two phases, and it granted permission to put in streets. MacDonald pointed out the agreement for maintenance in the second resolution. Miller said the agreements were heavily negotiated and were both beneficial to the Town. Schmidt confirmed the Town would maintain the head gate.

Mitchell moved and Merck seconded a motion to approve Resolution No. 31, Series 2018. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

7) Resolution No. 32, Series 2018 - A Resolution of the Crested Butte Town Council Approving the McCormick Ditch Agreement Between the Town of Crested Butte and Sheep Mountain Partners, LLC.

Ryan Martens introduced himself, and his wife, Wynn.

Merck moved and Dujardin seconded a motion to approve Resolution No. 32, Series 2018. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

8) Kapushion Declaratory Judgment Action, Case No. 17CV30036 - Status and Update.

Miller explained the McCormick Ditch agenda items and #9 (currently #8) and #10 (currently #9) were interrelated. The McCormick Ditch agreements represented the settlements with the Martens and Meredith. Now that there was agreement to move the ditch, the lawsuit had been resolved.

9) Authorization to Enter into Stipulations for Settlement with Wayne Meredith and Sheep Mountain Partners, LLC Concerning Their opposition to Town's Water Court Change Cases, Case Nos. 16CW3085 and 16CW3086.

Miller reviewed background on the agenda item. The parties agreed to stipulate out of the water court cases. Miller asked for authorization to sign the stipulations and settle the cases. Miller recognized opponents that still existed, including the Skyland Metro District.

Dujardin moved and Haver seconded a motion directing the Town water attorney to enter into Stipulations and Agreements, in substantially the forms dated December 6th, 2018, with Wayne Meredith and Sheep Mountain Partners, LLC as well as take any other necessary steps, to settle such parties' Statements of Opposition to Case Nos, 16CW3085 and 16CW3086, Division 4 Water Court. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

Miller updated on a revived water right from the Slate River.

10) Ordinance No. 31, Series 2018 - An Ordinance of the Crested Butte Town Council to Approve Stipulation Regarding Ownership and Easements for the Heights Open Space Property and for Dismissal of Action in Civil Action No. 2018-CV-30008, Gunnison County District Court.

MacDonald explained they had been in discussion with the property owners, primarily about being able to control the slope above the Nordic Center for avalanche risk. She reviewed background on the case. She stated they were right where the discussion started. Town would control for avalanches, and access to the Nordic trails and the Ditch Trail would be maintained. Residents of the Heights would continue to own the property.

Dujardin moved and Petito seconded a motion to set Ordinance No. 31, Series 2018 for public hearing on January 7th, 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

11) Ordinance No. 32, Series 2018 - An Ordinance of the Crested Butte Town Council Authorizing the Sale of Town-Owned Property Legally Described as Lot 16, Block 79, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to the Gunnison Watershed School District RE1J for the Sale Price of \$590,000.00.

Yerman pointed out the ordinance directed the Town Attorney to sign/draft documents, so the Council would not see further agenda items after the public hearing.

Mitchell moved and Dujardin seconded a motion to set Ordinance No. 32, Series 2018 to public hearing on January 7th, 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

12) Policy Regarding Fee Waivers for Photovoltaic Installation Permits.

Schmidt summarized Town would waive permit fees for the installation of solar panels. Yerman explained how the waiver came to be. Town was trying to be proactive. He encouraged the Council to look at renewable energy opportunities for residents.

Dujardin moved and Haver seconded a motion to adopt the fee waivers policy for Photovoltaic Systems in the Town of Crested Butte. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

LEGAL MATTERS

Miller wanted the Town to participate as an objector in the Skyland Case. Yerman said the purpose would be to monitor the case. The Council agreed to direct Miller to move forward.

COUNCIL REPORTS AND COMMITTEE UPDATES

Will Dujardin

- Attended a Mountain Express meeting. There was a new board member. Ridership was down 13% over the year. They had good feedback from employees on raises and the improved benefits package.
- Thanked the Council for covering the last meeting and apologized for missing the dinner.

Kent Cowherd

- Attended the RTA meeting. They finalized the budget and had plans for new bus stops and busses.
- The Creative District would be having a retreat.

Chris Haver

- Attended meetings on the Gunnison Valley Housing Plan.

Jim Schmidt

- There was a housing retreat last Thursday. It was suggested that planners from the communities serve as ad hoc members on the board. Kermode expressed how valuable it was to have Velado from Mt. Crested Butte and Yerman from Crested Butte attend meetings, but she thought they could serve as consulting members. Schmidt suggested Yerman be an ex officio member, and they could appoint Haver as a member of the Housing Committee.

Dujardin moved and Petito seconded a motion to appoint Chris as the second member of the Housing Authority and have Michael Yerman serve as ex officio member. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

Jim Schmidt con't

- Went to mayors/managers meeting. Others were not aware of Ride the Rockies' desire to come to the valley.
- Had lunch with Tim Baker last Monday. CBMR was done with snow making this year.
- Thanked the Town for the Christmas party.
- Expressed his best to Dan Greene.

Jackson Petito

- He would attend a Housing Foundation meeting on Wednesday.

Laura Mitchell

- There were four new Mountain Express busses.
- Recognized that bus ridership and sales tax were related.
- Attended the meeting regarding Peanut Lake Road.

Paul Merck

- Went to a STOR Committee meeting. They were putting in for a VOC grant for \$450K to have a coordinator for volunteer groups countywide. They were talking about the addition of new trails cutting off migratory patterns of animals.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

Schmidt wanted to discuss Council members appearing before BOZAR and/or DRC. He asked anyone to recuse him or herself if he or she might be affected by the upcoming discussion. Petit and Cowherd recused themselves and left the room. Schmidt asked the Council if they wanted to change the code of conduct to allow Council members to appear before the boards. He suggested adding the discussion to the next agenda. The remaining five Council members agreed to add to the upcoming agenda. Green identified how Town could be exposed to liability.

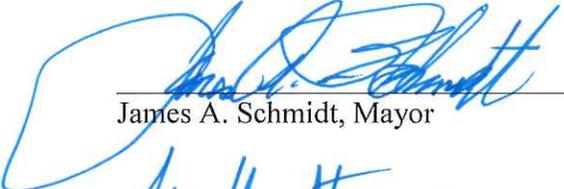
Mitchell recommended starting meetings earlier. Haver asked Staff to provide tools to help with efficiency. Cowherd learned from other mayors that it worked to prepare really, really well for meetings.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

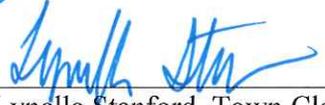
- Monday, January 7, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- *Tuesday*, January 22, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, February 4, 2019 - 6:00PM Work Session - 7:00PM Regular Council

ADJOURNMENT

Mayor Schmidt adjourned the meeting at 10:59PM.



James A. Schmidt, Mayor



Lynelle Stanford, Town Clerk

(SEAL)

