

**MINUTES**  
**Town of Crested Butte**  
**Regular Town Council Meeting**  
**Monday, July 18, 2016**  
**Council Chambers, Crested Butte Town Hall**

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

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

Staff Present: Interim Town Manager Bill Crank and Town Planner Michael Yerman

Deputy Clerk Betty Warren, Town Attorney John Belkin, Building and Zoning Director Bob Gillie, Parks and Recreation Director Janna Hansen, and Finance Director Lois Rozman (all for part of the meeting)

**APPROVAL OF THE AGENDA**

Belkin contacted the Council and indicated he was en route to the meeting but delayed. He would not be at the meeting until 10:00 pm.

Schmidt moved and Merck seconded a motion to approve the agenda with Belkin's changes for executive session, if he arrives.

A roll call vote was taken with all voting, "Yes". **Motion passed unanimously.**

**CONSENT AGENDA**

**1) July 5, 2016 Regular Town Council Meeting Minutes.**

**2) Resolution No. 21, Series 2016 - Resolutions of the Crested Butte Town Council Approving the Amended and Restated Restrictive Covenant Agreement for 310 Second Street, Crested Butte.**

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**

Jamie and Sasa Watt: Reported to live at 620 Gothic

- Explained their understanding of requirements and the difference between vending carts and vending booths related to their location in Town.
- Town Code indicated private property owners allow vending carts only.
- For their purposes, the Watts needed to set up a booth on private property and do not need a cart.

- The designated spots for carts were taken.
- Their requirement was a pop-up tent with table and banner.

Michel said a discussion related to this topic had taken place a few years ago and to allow Crank to look into the issue. Crank suggested a motion to move this discussion to Other Business.

Mason moved and Merck seconded a motion to move the discussion to Other Business to have staff look into this. **Motion passed.**

Maddie Rehn: Project Director for The Mountain Pact

- Distributed a handout for The Mountain Pact.
- Reported on mountain communities addressing climate change, and how her organization worked to reduce carbon emissions, improve economic growth, and preserve natural landscapes.
- The handout included a letter commending the Department of the Interior and Office of Natural Resources Revenue for the proposed reform to the valuation of coal leased from federal lands.
- Asked the Council to sign on to the letter in the handout and to provide a point of contact from the Council.

Michel indicated that it would be premature to sign without review of the handout. Crank will look at the handout and concept and respond to Rehn.

## **STAFF UPDATES**

Bob Gillie

- New concept plan for 6<sup>th</sup> Street Station progressing and no zoning changes.
- Working on floors currently at the Depot and winding up the project.
- There would be a public hearing on the Center for the Arts this Thursday at 6:00 p.m. He was hoping to get input from public.

Janna Hansen

- Tennis court resurfacing was completed.
- Big Mine Park project was moving along, and work to begin mid-August.
- Bike park material coming over from Blocks 79/80 to the location of the new bike park by the gravel pit. There would be a meeting this Wednesday at 2:00 p.m. for the new bike park.
- Planning to include new staff shirts in the 2017 budget.

Tom Martin

- Thanked Council for their support on personnel matters. He said that Mike Reily was a great choice to replace him in October.
- Hiring process for a new Deputy Marshal completed, and John Chandler to start the Academy in August for four months of training.

Bill Crank

- Related to the Meadows Condominiums, materials for the job were \$1,000. Parks and Recreation crews installed the pipe, built walkways and placed rocks around the area. Residents were happy with the results.
- The planning commission met to discuss conditions to approve Foxtrot per the wastewater treatment matter. The County was still setting standards to connect to Crested Butte's system. No work had been done about the 201 Agreement.
- Close to finalizing with Kapushion Development Improvement Project and might have complete agreement as soon as tomorrow.
- There will be a hearing next month on LD Ranch, which was a 17 lot light and heavy industrial project just south of Riverland.
- Request was made by Town to Vinotok organizers to have application submitted by July 22, 2016.

## **PUBLIC HEARING**

### **1) Ordinance No. 4, Series 2016 - An Ordinance of the Crested Butte Town Council Amending Chapter 7 of the Crested Butte Municipal Code to Add a New Article 6 Prohibiting the Use of Disposable Plastic Bags and Mandating Certain Standards and a Fee for the Use of Paper Bags.**

Michel confirmed with Warren that proper public notice had been given.

Crank said that he, Rozman, and Belkin met to re-work Ordinance No. 4, with what they heard from Council. It was substantially different from the wording as discussed in the July 5th meeting. The bag fee was reduced to \$.10, 7,500 square feet was used to define large scale retail (businesses under 7,499 square feet would not charge a bag fee), and a phase-in period of 2 years was included. The previous ordinance required that, of the \$.10 fee, \$.05 would go to Town and \$.05 would go to the retailer. Rozman and Crank agreed that the entire \$.10 should go to the retailer. Clark's Market was the only business impacted, as they had 12,000 square feet. Schmidt stated that he felt Town should not be included and was surprised to see that initial verbiage. He said it did not make sense moneywise. Ladoulis asked, with the collection of fees, if a municipality could assess a fee and not collect it.

Michel opened the discussion to public comment.

Megan Mile: From San Francisco-Reported that her brother lived at 711 Red Lady

- Stated that San Francisco collected \$.10 that went directly to the store.
- Most of the businesses had no problem and felt they were not losing business.
- 70% of tourists were not bothered by the fee for bags.
- Crested Butte could be an example to other larger communities.

Arvan Ramgoolam: Owner of Townie Books and Rumors-724 Teocalli

- Member of the business and environmental communities and believed Crested Butte should adopt the Telluride ordinance.

Gabi Prochaska: Reported to live at 120 Maroon

- Stated that Telluride started the bag discussion 7 years ago, passed an ordinance 5 years ago, and it worked well for 5 years. She would like to see an improvement on the Telluride ordinance for Crested Butte.
- The idea was not to penalize business or locals but to change behavior.
- Crested Butte could be the model and go one step further by increasing the fee to \$.20.
- Stated that all retailers should be included instead of just large retailers.
- Believed that Crested Butte could be the example going forward.

Benjamin Swift: 169 Slate River Drive

Distributed a handout with plastic and paper bag facts and information on their petition.

- Said he was happy the ordinance was being considered, but felt it needed more change.
- Tourists would not go to Gunnison because Crested Butte had a fee for paper bags.
- Referred to the online petition where 350 people signed with their support of the bag ban.
- Expand to all businesses, not just large commercial.
- Bag ban should change behavior for Town and tourists.
- The bag ban had not been an impediment to business tourists in Town.
- Reported on "BAG IT" movie showing.
- Stated that Clark's and True Value were on board.
- The ordinance "as is" would just be window dressing. He encouraged Council to make a significant move and step up.
- Said all retailers should comply with a \$.20 fee for paper, and retailers should keep all proceeds.

Dan Escalante: 414 1<sup>st</sup> Street

- Stated that, in the future, people might look back at plastic bags as harmful, and that Crested Butte needed to do this because it was what should be done.
- Crested Butte should take care of our back country, set an example for folks going through Town, and show that Town cares about the big picture.

Travis Underwood: Owner of Chopwood Mercantile

- Said he supported the ban.
- Reported that Chopwood used recycled paper bags.
- Asked if the ordinance was going to change behavior even for \$.10-\$.20.
- Asked if it was appropriate for Town to be involved.

Jana Oslund: Owner of Elk in an Apron-Reported to live on Slate River Drive

- Said that taking away a plastic bag doesn't change behavior and suggested there are other options along Elk Ave to include recycling receptacles, etc.
- Stated that Elk in an Apron used 100% recyclable bags.

- She suggested shopping bags from businesses were used by tourists and kept as souvenirs.
- Bags on Elk Avenue were being re-used in her experience.
- Stated that she was in favor of doing what was right for Crested Butte. It was hard to be in retail, and to add one more thing administratively was difficult.

Michel closed the public comment and opened it to Council discussion.

Vohman and Merck were on the Bag Subcommittee, and said the lines got crossed related to the lead time beginning immediately. Vohman said the fee should be \$.20 to offset the cost of new bags, the fee should be for all businesses, and the money collected should stay with retailers. Merck agreed that all retailers should comply, and that whether it was a bag ban, included paper, and required a fee to be collected, the money should go to the retailers. He praised Benjamin Swift on his work and presentation and agreed that Clark's and True Value were in favor of the ban. Merck also stated that he wanted to listen to the comments of Council to determine his final decision. Michel identified the four issues to be decided which were (1) ban plastic, (2) ban paper, (3) collect a fee, and (4) determine the square footage requirement of the businesses to be included. Schmidt said he would not vote for this ordinance, if the Town collected any money. He was not sure if this should apply to all businesses and wanted to wait to hear the comments of others. Mitchell suggested that smaller retailers could be placed on an honor system, but that might not work effectively. She wanted to go forward with the bag ban, but said there were items purchased such as donuts or broccoli where a bag was needed to transport them. She stated that paper bags were fine, and that all retailers should comply. Mason reiterated the question Ladoulis asked earlier in the meeting concerning whether the Town could impose a fee and not collect it. Ladoulis said the fee was acceptable, whether it covered costs or not. He stated that there was an administrative burden, even though the fee did not come back to Town. The Town would incur administrative costs. He said that \$.10 minimum for paper bags at large (7,500 +square feet) establishments, and a two year phase-in period would be acceptable. Ladoulis supported the \$.10 fee, and the bag ban. Schmidt suggested a voluntary fee of \$.20 per bag, and Michel said the fee should be no less than \$.20 cents. Michel said that the Council needed to identify the true goal of the ordinance. He said that Town lags in recycling and there was huge jobsite waste, so there might be better things to target at this time. Council represented the Town, and this ordinance would place a large burden on businesses via taxes. He indicated it was hard to do business in Crested Butte, especially when adding more to the point of transaction. He did not want to impose more on the business owner with the power of government. He suggested Town could pass an ordinance to ban plastic bags and place the fee for paper bags on large retailers. Michel polled the Council. He asked if the Council agreed with the plastic bag ban. No one on the Council voiced disagreement with the plastic bag ban. Next, he asked about the fee. Vohman wanted a \$.20 fee for all retailers. Ladoulis felt it was too high. The Council all agreed the fee should be retained by retailers, and the phase-in time of two years was acceptable. The Council discussed a possible motion to include banning plastic bags, and that all retailers would charge a \$.20 fee that they would retain. There would be a 2 year phase-in period, and they discussed striking the square footage requirement.

Merck moved to enact Ordinance No. 4, Series 2016 as amended.

Vohman moved and Mitchell seconded a motion to increase the fee to \$.20 on paper bags. A roll call vote was taken with all voting, "Yes". Ladoulis voted, "No". **Motion passed.**

A member of the public told the Council they could not do a more restrictive ordinance without public notice. Schmidt agreed and said they needed to set this for another public hearing. He wanted to direct staff to create a new ordinance.

Ladoulis moved and Mason seconded a motion to approve the ordinance as proposed, but without Town collecting the fee. A roll call vote was taken with Ladoulis, Mason, and Michel voting, "Yes", and Merck, Mitchell, Vohman, and Schmidt voting, "No". **Motion failed.**

## **NEW BUSINESS**

### **1) Discussion and Possible Direction from Council Regarding Classification and Rule Set for Mobile Housing Units Pertaining to the Wheeled Unit Located at 29 Gothic Avenue.**

Gillie described the situation (on approximately June 22, 2016) where Dan Escalante moved a wheeled vehicle to his parents' back yard at 29 Gothic Avenue. The trailer appeared to be unfinished, under construction, and was not being lived in at that time. Neighbors had opposed this building project, and indicated that it did not comply with Town policies to control density through zoning and permitting. They said it was not consistent with aesthetics via design review. The neighbors' concern was that it would negatively impact their property values. Gillie explained the existing rule set and said that there was not a rule specifically for a wheeled residence other than at a mobile home park. There was a rule set for "Transient Mobile Homes" and smaller accessory dwellings on the same lot as a primary dwelling. Gillie reviewed the current rule set and defined transient mobile home. It would either be an accessory dwelling or transient mobile home. The building inspector determined that it could not have been an accessory dwelling, but did declare it a transient mobile home. He stated that requirements for designation as an accessory dwelling were to have at least 400 square feet, and the dwelling would be subject to building, design, and sanitary codes. Neighbors would have the opportunity to comment on the home via the public hearing process. He reported on licensing and said that Colorado Revised Statutes required vehicles that were driven, pulled, or parked had to be registered with the Department of Motor Vehicles. Trailers were subject to the necessity of brake lights, turn signals, length restrictions, weight, etc. A trooper must inspect homemade trailers and issue a seal to the owner, after which the owner would take the trailer to the DMV in order to register it. There was a discussion related to the wheeled vehicle at 29 Gothic. Issues addressed were that the unit was not finished, and no one had lived there to this point. The unit had not been tagged or registered with the DMV. It was not within the required setbacks on the property.

Escalante stated that he was working on the unit and building a tiny home to provide a new housing option in Town. He said that he wanted to live there full-time when the project was completed. He described the layout and suggested he would place a composting toilet in the unit. He indicated that his work on the home was not noisy. Michel said that living in the unit full-time would require the ability to sleep and live for periods of time. He said this should be classified now as a “transient mobile home”. Merck spoke about the population density issue and said for Escalante to work on it somewhere other than where it was bothering neighbors.

Michel accepted public comment.

Jerry Lund: 32 Teocalli

- Described the wheeled unit at 29 Gothic as a shanty and health hazard.
- Suggested that the owner had no authority and no permission from Town.
- Called for enforcement of Town zoning codes. Lund said he honored the strictness of zoning codes and was proud of the community.
- Said it was architecturally inappropriate for Crested Butte.
- If Town wanted tiny houses, then Town should provide a location for those to be placed.
- Spoke about the visual aspects and that the unit was not recreational, not licensed, and did not apply to the provisions of low density and customary use.
- Suggested that Town did not allow stick built homes, so why would trailers be allowed.
- He stated that this was a blatant violation, that it was being manufactured on the lot in the R1 zone, and was not a recreational vehicle until licensed and roadworthy.
- He said to please address affordable housing in Crested Butte.
- Town should not allow this and should enforce the law, because the law is very clear.

Gil Friedlander: 17 Gothic

- Has owned a house for over 20 years, and said he built a second house from scratch.
- When he built, he was subject to strict requirements from BOZAR.
- He appreciated rules and laws, as they allow the community to not be chaotic.
- He stated that he invested in a home but also the neighborhood, and he wanted to keep it a nice neighborhood.
- Council was required to enforce rules and abide by laws. He stated that Council should enforce the rules.
- Town had to have jurisdiction, maintain historical integrity, and protect property values. This unit should be licensed or removed.

Nina Kingsdale:

- Seconded the comments made and referenced the violation of zoning codes, as this was manufactured.

- Since the unit was being manufactured and not being repaired, the noise was an issue.
- Asked who enforced this issue, and Michel said it was up to the neighbors through complaints. She asked who would receive the complaints, and Michel said complaints would go to Tom Martin.

John O'Neal: 416 Gothic

- Reported that Tumbleweed Homes in Colorado Springs and Sprout Tiny Homes were building tiny houses to test viability.
- He said they were a viable option as a dwelling.
- Asked for research through Council to see how this might work and said to find a place for it.
- Michel said Council was not banning tiny houses, but this was considered a transient mobile home.

Joanie Lund: 30 Teocalli

- Stated her home was on the Wildflower Tour because of the beauty of her yard.
- She said this was a residential area, but the transient mobile home was not residential.
- Objected to the possibility of toilet sewage smell and indicated that everyone else had plumbing.
- Town should have the creativity to find places for these units to be zoned.
- This unit needed to be moved as quickly as it could happen.

Beth Goldstone: Purchased in Blocks 79/80

- Suggested many people were looking for affordable housing.
- The community should go and look at 29 Gothic, as she believed it looked like an accessory dwelling. She also stated that it looked like the neighborhood and fit in well.

Donny Davol: 712 Gothic

- Council should find places for these tiny houses.
- Said he hoped it could work for everyone.

Merck said that Escalante and Town were looking for a solution to housing issues, but currently this was in violation of Town Code. Mason suggested the Affordable Housing Committee should look into it. He asked Escalante if he registered the unit, and if he had another place to put it and work on it. Escalante stated that that was doable. Mitchell said that RV tags were good for 14 days, but this was not a reasonable or appropriate place to live behind his parents' property. Neighbors were definitely unhappy. She said to tag the unit and follow the rules. Schmidt did not want to see the Town become an RV area. RV parks in Riverland and north of Riverland were more appropriate locations, especially when the unit was being manufactured. Vohman asked if Escalante was in violation of the Code. She said his parents who own the lot were agreeable to the unit parked in the back yard. She believed Escalante was not in violation. Michel reiterated that Gillie had explained the existing Code and directed staff to enforce the Code in this

situation. Michel accepted the building department official's determination that this was a transient mobile home. Ladoulis said the property owner was in violation and to enforce what Town had in place. He said he appreciated Escalante's mission and hoped he could find another place for the house. Belkin said Council had made a decision on zoning, and it was time to move this to Crank, Gillie, and Martin. He said to get the unit tagged and moved. Discussion ensued about asking the Affordable Housing Committee to create new space for these tiny houses, and all felt there was already too much on the plate of that Committee and Council. Council directed staff to entertain this issue with the new Town Manager.

## **2) Discussion and Possible Action Regarding the Process for Hiring Town Manager Position.**

Rozman reported that Town had received 55 applications for the Town Manager position. 25 were Colorado residents, 5 Crested Butte residents, and 4 in progress (probably not to be included). She asked for quick decisions on 5 items for discussion and decisions from the Council:

- 1.) Did Council want a recorded candidate interview for the top 10 candidates. Rozman made the recommendation to include the recorded candidate interview, and said this would not incur extra cost to the search. All – “Yes”
- 2.) Decide who would be involved in arriving at final candidates. Should it be the entire Council. All – “Yes”
- 3.) Schedule a date with Council and Chuck Rohre for August 3, 4, or 5, 2016. Rohre will come on-site to work on applications and determine finalists. Council agreed to Thursday, August 4, 2016.
- 4.) Decide finalist onsite interviews and that 2 days would be needed. Council scheduled August 17-18, 2016.
- 5.) What involvement did Council want to see from staff, general public, peer review panel from town managers. Council agreed “Yes” to staff, “Yes” to general public meet and greet, and “Yes” to managers panel.

## **LEGAL MATTERS**

Belkin spoke about the issue of people purchasing two or more condominiums and making them into a single unit. The concern was that this practice would limit the number of affordable units. Council directed staff to research a method to prohibit this in an effort to get ahead of the trend faced by Telluride. Belkin will gather information and report to the Council.

## **COUNCIL REPORTS UPDATES AND COMMITTEE UPDATES**

Jim Schmidt

- The Creative District Committee met and sent out requests for design of a bench on Lupine Trail.

- Housing Needs Assessment Committee met, and surveys were coming out - one was for employees and the other employers. He urged people to fill out the survey to establish housing needs.
- Anthracite Open House was scheduled for this Friday from 3:00-5:00 p.m. He indicated that, of the 30 units, 16 had been approved, 9 not eligible because income was too high, and 25 applications were pending.

Paul Merck

- Was named the Vice President of Coldharbour.

Roland Mason

- Attended RTA meeting, and they discussed GPS locator apps.
- Reported that summer flights out of Houston were tracking well. They were above last year and increased seats by 40%.
- Mountain Express meeting would be on Thursday.
- Attended 4-Way stop bathroom meeting.

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

Sasa Watt explained the issue of vending carts vs vending booths and was inquiring about the specific spots where booths and carts were allowed. Her understanding was that private property permission required the vendor to have a cart, which had different rules and incurred greater expense to the vendor.

Mason suggested looking into the ordinance to see what it said related to carts and booths. Belkin indicated this discussion had taken place in past years. The issue had two questions to answer, 1) the addition of booths in the verbiage, or 2) why that would not be allowed. Michel said this was not a simple discussion but that Stanford, Crank, and Belkin would look into it.

Merck reported that a woman who lived and worked in Crested Butte said the restrooms at the fire station and 4-Way were locked frequently. Yerman stated that Dale Hoots had installed timed locks, but that he would follow up with Hoots.

Vohman reported that Delta Forest Service had property in the Maroon Bells Wilderness for \$500,000, which could be swapped for 35 acres near the Town of Crested Butte. She asked if Council had interest in exploring that option. Town staff will look into it.

Mitchell reported on a state sign that had fallen at 6<sup>th</sup> Street, which said to yield in crosswalks in the vicinity of Anthracite Place. As Anthracite Place opened up, this could create a hazard. She asked what the cost would be for a flashing sign at the crosswalk, and if that was a possibility. Yerman said he had been involved with projects for flashing signs in Buena Vista, and that it would not be cheap. He said he would contact CDOT to inquire about cost and process.

Michel addressed Vohman and stated that Council members must adhere to the Colorado Open Meetings law which prohibited one member from sending email to all 7 Council members. He said Vohman must be respectful and refrain from emailing all Council members in the future. Vohman stated that she would refrain from sending group emails to all Council members. Merck suggested that Vohman meet with the Town Manager and Town Attorney for an explanation of rules. Schmidt seconded the concern.

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

- *Tuesday*, August 2, 2016 - 6:00PM Work Session - 7:00PM Regular Council
- *Monday*, August 15, 2016 - 6:00PM Work Session - 7:00PM Regular Council
- *Tuesday*, September 6, 2016 - 6:00PM Work Session - 7:00PM Regular Council

**EXECUTIVE SESSIONS**

Belkin asked to strike item #2 from Executive Session.

Schmidt moved and Merck seconded a motion to go into Executive Session for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. 24-6-402(4)(b). A roll call vote was taken with all voting, "Yes". **Motion passed unanimously.**

The Council went into Executive Session at 10:45 PM. They returned to open meeting at 11:28 PM. Mayor Michel made the required announcement before returning to open meeting.

**ADJOURNMENT**

Mayor Michel adjourned the meeting at 11:29 PM.

*Glenn Michel*

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Glenn Michel, Mayor

*Betty Warren*

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Betty Warren, Deputy Town Clerk (SEAL)

