

MINUTES
Town of Crested Butte
Regular Town Council Meeting
Tuesday, July 5, 2016
Council Chambers, Crested Butte Town Hall

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

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

Staff Present: Interim Town Manager Bill Crank, Town Attorney John Belkin, Town Planner Michael Yerman, and Public Works Director Rodney Due

Building and Zoning Director Bob Gillie, Town Clerk Lynelle Stanford, and Finance Director Lois Rozman (all for part of the meeting)

APPROVAL OF THE AGENDA

Merck moved and Schmidt seconded a motion to approve the agenda. A roll call vote was taken with all voting, "Yes," except Mason and Ladoulis, who were not yet present to vote. **Motion passed unanimously.**

CONSENT AGENDA

- 1) June 20, 2016 Regular Town Council Meeting Minutes.**
- 2) Resolution No. 16, Series 2016 - Resolutions of the Crested Butte Town Council Approving the Lease Agreement with the Center for the Arts for 620 Second Street, AKA Big Mine Warming House.**
- 3) 3rd Annual Grand Traverse Mountain Run & Bike Closing a Portion of the Chamber Parking Lot on September 2, 2016.**
- 4) Resolution No. 20, Series 2016 - Resolutions of the Crested Butte Town Council Approving the Grant of a Revocable License Agreement to East of Irwin, LLC for the Placement of a Porch in the Maroon Avenue Public Right of Way Adjacent to 214 Maroon Avenue.**

Stanford requested the removal of #2 from the Consent Agenda. Michel confirmed it was struck rather than moved.

Schmidt moved and Merck seconded a motion to approve the Consent Agenda with the removal of #2. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

PUBLIC COMMENT

Jerry Lund - 30 Teocalli Ave

- He was voicing a complaint about the alley side of 29 Gothic Ave. He discovered a structure on the property, and he went directly to Town.
- He had conversation with Gillie about “red-tagging” the unit, and Lund believed it should have been gone within two weeks.
- Found out on July 1 that the unit had not been “red-tagged” because it was considered a recreational vehicle (RV).
- Lund cited Town Code and the definition of a RV.
- He told the Council they needed to determine what to do.
- Mentioned the BOZAR process and the fact that the neighbors had complied.
- Thought they needed to clarify the definition of a RV.
- He asked that a special interest didn’t re-zone Town.

Cathy Sporcich - 17 Gothic Ave - Appeared on behalf of Gil Friedlander.

- Friedlander was concerned his issues wouldn’t be heard, which were the same as the ones voiced by Lund.
- Friedlander believed building a RV was different than repairing one. He thought it should be built in an industrial park and not in the neighborhood.

Nina Kingsdale - Reported to live immediately adjacent to said property (29 Gothic Ave).

- She noticed what looked like a shanty town. She talked to her neighbor, who announced he was homeless.
- She asked the Council to take action.

Gillie responded to the comments from the public. He explained the zoning code had not changed in a couple of decades, and it didn’t anticipate the small house conversations described by the residents. The rule set was designed to deal with structures, which were attached to the ground. There was no rule set against working on a project in a backyard. He stated the trailer was not habitable when he saw it. If the person did start to live in it, the Code restricted the use of RVs on private property for more than 14 days. Merck and Michel concurred the topic should be added to the next agenda.

Roger Sherman

- Referred to a memo written by Gillie considering the zoning at 301 6th Street.
- He was facing a maintenance decision to replace the roof, or he was looking to possibly redevelop to some degree.
- He was asking for a continuance of an existing non-conforming use.
- Redeveloping would result in a product that would help Town.
- He stated the property was an eye sore, and he needed leeway from the Town in order to change it. The redevelopment wouldn’t happen if it remained strictly B2 Zoning.
- Asked the Council to consider instructing Staff to look at the project in a liberal manner to allow the project.

- Sherman described his vision for the project if it was redeveloped.
- Michel reminded Sherman the Council could not take any action. He asked if he had started the BOZAR process. Sherman wanted to get a feel from the Council first if they wanted to consider.
- Gillie said what Sherman wanted to do was outside of the rule set. The implications were zone wide because they didn't do one-off deals. Yerman added that ROAH and affordable housing were also affected.
- Ladoulis and Merck agreed they would discuss the topic further under Other Business.

STAFF UPDATES

Lynelle Stanford

- Requested an application from the organizers of Vinotok no later than July 22.
- Deputy Clerk Betty Warren would cover the next meeting.
- Mentioned upcoming special events.

Lois Rozman

- Sales tax was up 4% for May, and it was up 4% year-to-date.
- Emailed Chuck Rohr at Waters and Company. There were 11 applications for the (Town Manager) position. There were 5 more in progress. She said they would have a discussion with the Council on how to move forward at the next meeting.

Rodney Due

- Reported that the 4th of July went well.
- They would be paving Blocks 79 and 80 for the next two days. Then, they would be able to open the RV dump station.

Bob Gillie

- The public hearing for the Center would be the 21st of this month.
- The committee had been meeting on the short-term rental issue.
- They were starting the 4-Way bathroom design this week.

Michael Yerman

- The Youth Corp arrived today. For the first two weeks they would work on weed mitigation in open spaces. He thanked the Land Trust for their assistance in managing the work.

Bill Crank

- Crank and Due met with property owners at Lake Irwin, who designed unusually shaped lots in a conservation easement in the wetlands. Crank was not convinced there was enough space for onsite wastewater treatment systems. The property owners would work with the County.
- They would later talk about the McCormick Ditch and the water. He thought they had an agreement, but they ran into problems with the reimbursement agreement.

- Schmidt and Crank attended the CAST meeting in Vail. They talked to people from a lot of other towns with short-term rental issues.

NEW BUSINESS

1) Discussion and Possible Approval of the Crested Butte Arts Festival Closing Elk Avenue from the 200 Block to the Mid-500 Block from August 5 to August 7, 2016.

The event organizers, Juliette Eymere and Annie Tunkey, were present at the meeting. Eymere told the Council the street closures were the same as they were every year. They added a couple of art installations that had been approved by Town Staff. Stanford confirmed there had been no changes since the staff report was written. Bobby Maxwell, business owner present at the meeting, preferred that the booths were set up in a way that retailers could better benefit. Eymere agreed to include a sign to help Maxwell because she thought the logistics were hard to change.

Merck moved and Ladoulis seconded a motion to approve the Crested Butte Arts Festival special event application and special event liquor permits. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

2) 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.

Benjamin Swift summarized that the ordinance in front of Council was what he presented at the last meeting. Schmidt asked Rozman if the collection aspect by Town had been worked out. Rozman explained what she learned from Telluride about how business owners filed a return separate from their sales tax return. Ladoulis questioned how it would interface with MuniRevs. Rozman stated that the fee would not cover the cost associated with MuniRevs.

The discussion was opened to public comment:

Eliza Cress - Reported to live at 602 4th Street - Was present to speak on behalf of Chamber membership.

- She voiced three concerns: 1) the rate at which the ban would be implemented because businesses purchased bags to last for the next year or two. 2) Cost of charging people per bag. 3) The vast majority of the fee was borne by the buyer, which affected small business owners on Elk Avenue.

Robert Maxwell - Business owner at 322 Elk Avenue, Elk in an Apron

- The idea about encouraging people to be environmentally thoughtful was right on, but the implementation was exactly wrong.
- He ran his business in an environmentally sound way. They always asked customers if they'd like to have bag.

- The administrative part was another burden on businesses.
- The bag ban wouldn't lead to impact on the carbon footprint. He said to consider items such as pizza boxes and visitors' guides. It should be a shared responsibility and not just targeted at retailers.
- Suggested they use an incentive instead of a penalty.

John Meyer - 124 Maroon Ave

- It (plastic bag ban) was being done in other towns.
- He didn't see stumbling blocks.
- He was in support.

Gabi Prochaska - 120 Maroon Ave

- Was working on a non-profit, Sustainable Crested Butte.
- They started making reusable bags with the idea that every business would have bags available. The key was the circulation of bags.
- Michel wondered where the funding would come from, and Prochaska listed sources of funding to include grants.

Benjamin Swift - 169 Slate River Drive

- Stated that reusable bags were the solution for fees.
- He explained that the 30-cent proposed fee was higher than other towns. It was important to have a substantial enough fee to deter customers from using single use bags.
- The 5% that went to the Town was negotiable.
- They wanted to apply the fee to all of the retail stores in Town.

Michel questioned the phase-in period and how long it would be. Swift said it didn't get into the ordinance, but based on feedback, he thought the phase-in should be anywhere from one to two years. Schmidt asked about biodegradable plastic bags. Swift said their production was similar to paper, but he thought the costs were comparable. Prochaska added that they were only biodegradable in industrial composting facilities.

Next, the Council discussed Boomerang Bags and the details associated with reusable, circulating bags. The Council was considering retailers that would be affected immediately. Michel recognized the bags would have a finite usage period. It was confirmed the draft of the ordinance excluded food. Ladoulis wondered if the Town took on liability if someone was sickened from using an unsanitary bag. Belkin didn't see a liability issue for the Town. Swift thought that Clark's was on board with the Boomerang Bag idea.

Greg Clifton, Town Manager of Telluride, provided a history of the bag ban in Telluride. He clarified how they implemented it mechanically, and he thought the ordinance worked for them. Telluride's ordinance did two things: 1) it banned plastic community-wide. 2) It instituted a fee on the use of paper bags on large retailers, measured by square footage. He urged the Council to consider a grace period and to have exemptions for purchases that must be wrapped in plastic.

Public comment was closed, and it was moved into Council discussion:

Merck wanted to continue to direct Staff to work on the issue. They had to continue to work with people most affected. Belkin thought it was important to have a staff member working with the group. Schmidt liked Telluride's ordinance better than the one they were considering. He hated the idea of Town having to collect money and how much it took to collect it. He didn't want Staff to be burdened. He liked the 5,000 square foot cut off, and the phase-in was important. He had a problem voting if there was Town involvement. Mason asked if Schmidt would be in favor of Town not taking any cut. Schmidt preferred a retailer giving a discount for bringing in a bag. Mitchell thought they should proceed, and she was fine with the ordinance as written as long as the phase-in period was at least 18 months. Mason wanted to see a grace period and a lower bag fee. He liked Schmidt's idea of taking Town out of it, and he thought they needed to talk about exemptions for the weather. Ladoulis thought the idea was a good one, but he struggled with it being good policy. He disagreed with the notion there should be a penalty. He liked the idea of raising awareness, but he wanted to do it in a more controlled, limited fashion. He was not supportive of a large fee on paper (bags). He cited bans that had been overturned, and he thought they would have broader support if the ban was more limited. Michel said the reason to pass the ordinance was to change and affect behavior, which he suggested be identified with a finding in the ordinance. He also thought the phase-in period needed to be 1.5 to 2 years. He was a fan of sticking with the Telluride model. Michel didn't support adding another fee or having Town involved with the fee on paper bags. He summarized that Council was in support of the bag ban but not the fee on paper bags. He said they could direct Staff to create an ordinance that Council could get behind. The Council discussed briefly if they would start over, or set the ordinance for public hearing at the next meeting. Belkin said they could set the ordinance for public hearing at the next meeting, and Michel agreed.

Merck moved and Mitchell seconded a motion to direct Staff to work on Ordinance 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 regarding the use of paper bags. **Motion passed.**

3) Resolution No. 19, Series 2016 - Resolutions of the Crested Butte Town Council Amending Appendix "A" of the Crested Butte Municipal Code to Update the Payment-in-lieu of Providing Resident Occupied Affordable Housing Rate.

Yerman told the Council the resolution was administrative action. This year, the mitigation rate went from 15% to 20%. He explained that when the ROAH ordinance was adopted in 2012, the Council directed the mitigation rate to increase every two years until 2016, when the rate would be 20%. Yerman explained he took a three-year average of the price per square foot of houses sold in Town.

Schmidt moved and Merck seconded a motion to approve Resolution 2016-19; A resolution of the Town Council to establish ROAH payment-in-lieu rates for 2016. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

4) Discussion and Possible Action Regarding the Intergovernmental Agreement Among Gunnison County, the Town of Crested Butte, et al. Regarding the Upper East River Valley Areawide 201 Facilities Plan.

Crank reminded the Council they had been back and forth with the County. County Staff made recommendations to the Planning Commission and County Commissioners. They took information from the developer of Foxtrot, who made suggestions on what the County should consider. They effectively took the 201 Agreement and laid out the idea they would approve of for on-site wastewater treatment systems and situations when the Town would take them in once they got within 400 feet of the line. They put in their own detail where there was no detail, which was what they were recommending. They conceded they couldn't set tap and use fees.

Michel stated they wanted the County to work with the Town to develop a process that would work in the future. Mason agreed. Belkin said that the Commissioners could have concern that it was quasi-judicial and they couldn't meet with Town. Merck thought they needed to have a discussion with the County, regardless if this particular application was approved. Michel suggested that Council could send a letter to the County asking them to develop a process. Michel said they couldn't leave the IGA out languishing, and they needed to figure it out going forward. After the process was solidified on the project, they needed to see where the 201 stood with the County Commissioners. There was a discussion on the timing for the letter based on County Commissioners' meetings. Michel said Staff should write the letter and have it on an upcoming Consent Agenda for Council's approval.

Merck moved and Mitchell seconded a motion that the Town Council requests that a letter is written to request a meeting with the County Commissioners to discuss the 201 intergovernmental agreement once the Foxtrot Subdivision is approved or not approved. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

5) Discussion and Possible Action Regarding Appointment to Four-Way Transit Center Bathroom Design Committee.

Yerman told the Council that Staff would like to have two members of the Council sit on the 4-Way Design Committee. Staff specifically asked for Mason to be appointed. Yerman explained the Council members would need to recuse themselves once they were nearing submittal, but the timing was such that Staff wanted to be ready for the upcoming budget.

Schmidt moved and Merck seconded a motion to appoint Glenn and Roland to the 4-Way Transit Center Bathroom Design Committee. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

LEGAL MATTERS

Freeport-McMoRan would be here on the 19th and 20th for a series of meetings to include technical people to review the property and site. They would meet on site-specific standards on the plant. There would also be meetings with attorneys to talk about the larger transaction on land matters. He would provide an update after the meetings.

COUNCIL REPORTS UPDATES AND COMMITTEE UPDATES

Laura Mitchell

- Had been attending short-term rental committee meetings.
- Michel asked when they would bring their recommendations to the Council. Mitchell thought it would be in a week or so.

Jim Schmidt

- The needs assessment committee was spawned off the housing committee. They were trying to push through a needs assessment quickly to allow for entities that wanted to consider findings during budget time.
- Attended CAST meeting. In the past, they had an exchange of Council and senior staff with Telluride. He thought it was a great thing to do. Michel and Crank agreed. They decided to write a letter to Telluride inviting them to Crested Butte.

Glenn Michel

- Attended a Center for the Arts meeting. They submitted plans on Friday to enter into the BOZAR process.
- Along with Mason, he would attend a RTA meeting on Friday in Gunnison.

OTHER BUSINESS TO COME BEFORE THE COUNCIL

The zoning question brought forth by Sherman during Public Comment was discussed. Ladoulis thought they needed a plan for the entire 6th Street Corridor. Zoning was reactive and about enforcement. Michel recognized that two projects as of late had run into problems with how the B2 Zone was applied. Schmidt said he would consider a change in zoning if the project resulted in more than one or two units of workforce housing. Yerman stated that to consider what Sherman was requesting they would have to look at drastically changing the requirements in the B2 Zone. Ladoulis asked if the structure was consistent with what they wanted in Town. Michel questioned if they would want to change the way the area was zoned, recalibrating investments made along the corridor. He did not see that it wasn't working. Yerman reminded the Council that rezoning didn't affect just one property. Sherman clarified it was an existing non-conforming use that they would allow to continue. Gillie explained that changing a non-conforming use would affect all zones in Town. Belkin said it was inconsistent with the whole idea of zoning; he would discourage. Gillie stated the vision for that zone was embedded in the zone, and the point was to reduce non-conforming uses over time. Sherman wanted to see where compromise could occur. He wanted to know if there was

more dialogue. Merck told Sherman he had options, and he encouraged him to keep the dialogue going.

Ladoulis voiced concerns that during the last Internet outage, that there was no 911 service. He talked to Chief Marshal Tom Martin, who said he would bring it up at his next 911 meeting. Ladoulis was concerned 911 service in particular seemed unusually affected given people could call locally. It was decided Crank would follow up with Martin and report back at the next meeting if he learned something.

DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE

- Monday, July 18, 2016 - 6:00PM Work Session - 7:00PM Regular Council
- *Tuesday*, August 2, 2016 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, August 15, 2016 - 6:00PM Work Session - 7:00PM Regular Council

Schmidt questioned if there was anything planned for the next work session. He wanted to either discuss the idea of banning clubs on Elk Avenue, or he wanted it taken off the list. Ladoulis explained he had heard concerns from people being excluded from Elk Avenue, and some of the concerns were around the Whatever event. Belkin recalled the topic of a condo regime that was eliminated. Ladoulis said the discussion was concerning a long running bar that had been converted to private use and about the status of private establishments on Elk. Schmidt had a concern about people buying up multiple condos and converting them to big condos. Crank said he would work towards a work session at the next meeting.

EXECUTIVE SESSION

Schmidt moved and Mason seconded a motion to go into 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)(e) regarding Development Improvements Agreement with Ruth M. Kapushion Family Partnership, LLLP et al. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

The Council went into Executive Session at 10:08AM. Council returned to open meeting at 11:08PM. Mayor Michel made the required announcement before returning to open meeting.

ADJOURNMENT

Mayor Michel adjourned the meeting at 11:10PM.

Glenn Michel

Glenn Michel, Mayor

Lynelle Stanford

Lynelle Stanford, Town Clerk (SEAL)

