

**MINUTES**  
**Town of Crested Butte**  
**Regular Town Council Meeting**  
**Tuesday, August 6, 2019**  
**Council Chambers, Crested Butte Town Hall**

Mayor Schmidt called the meeting to order at 7:05PM.

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

Staff Present: Town Manager Dara MacDonald, Town Attorney John Sullivan, Town Attorney Barbara Green, and Finance Director Rob Zillioux

Community Development Director Michael Yerman, Town Clerk Lynelle Stanford, and Public Works Director Shea Earley (for part of the meeting)

Schmidt mentioned the topic of the work session, the role and authority of the Town Council, presented by Green and Sullivan.

**APPROVAL OF AGENDA**

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

**CONSENT AGENDA**

- 1) **July 15, 2019 Regular Town Council Meeting Minutes.**
- 2) **Execution of Contract with Energy Services Company for Investment Grade Audit and Energy Performance Contracting Services of Town Facilities, Parks, and Vehicle Fleets.**
- 3) **CC4CA Policy Statement.**
- 4) **Final Payment for Paradise Park Duplex Build to High Mountain Concepts.**

Dujardin 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**

None

**STAFF UPDATES**

- Schmidt referred to the staff report from MacDonald.
- Zillioux reported that he met with representatives from the County, Mt. CB, CB South, and Mountain Express. The group wanted to continue with the late night town taxi service. They came forward with a suggested outline on what the service would look like. They would put the outline in front of Telluride Express that did not have a representative present at the meeting.
- Yerman mentioned a work session was needed on the demolition moratorium, which the Council could schedule later in the meeting.
- Schmidt was sorry to hear the hockey changing rooms were delayed another year.
- MacDonald asked Council members to let her know if anyone was interested in attending the conference in Park City.
- Mitchell asked about the Marshals' responses to the bear running around. MacDonald would follow up with Mike Reily.

### **PUBLIC HEARING**

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

Schmidt read the title of the ordinance. Green explained the reason there was a public hearing on the transfer of public property. Yerman stated Wisian was able to provide an overage bond, rather than a performance bond that covered the project. He reviewed the amendment to the contract. Town would buy the plans in order to re-bid the project. The intent would be to re-bid Phase 2 to break ground in the spring. For now, Staff recommended not moving forward with Phase 2 this fall. Yerman said they would have the surety and bond issues with Town transferring the property, and he wanted to consider different financial solutions. Yerman elaborated upon the changes to the amounts in the contract.

Sullivan concurred with Staff's recommendation to not pass the ordinance. Joel Wisian, from Bywater, affirmed he did not have a bond in hand. He reviewed conversations he had, including one with someone who offered help in securing the bond. Wisian acknowledged that Town was asking for a completion bond. Town staff and the attorneys were not comfortable with the proposed solution. Wisian provided a letter from a bonding agent, and he said that he could gain final approval. There was a solution on the table.

Wisian outlined performance bonds and completion bonds. Schmidt questioned if it mattered to Town to postpone another two weeks. MacDonald explained the timing of the contract approval related to the bond. Green distinguished between a performance bond and a completion bond. Green said they could not change the recommendation. Sullivan stated the letter was not sufficient. MacDonald confirmed Bywater was in

default of the current contract. Sullivan reiterated they could not recommend approval tonight.

Green informed the Council they would not be risking anything to approve the ordinance because of the contract. Sullivan identified language in the ordinance that was not accurate. There was discussion on the date on which to require the bond. Yerman said they were looking at proceeding with Bywater, or re-bidding for next spring. He suggested a deadline date for the bond of August 30<sup>th</sup>. Dujardin voiced concerns about the affordable housing guidelines coming up on the agenda.

Schmidt confirmed proper public notice had been given, and he opened the public hearing.

Benjamin Diem - Owner at Bonez

- It was super critical to have key players available (at the restaurant). They were trying to get places up here.
- The Stash and Bonez had many employees.
- He wanted Wisian to keep their checks in order to build.
- He said to go for it.

Greg Wiggins - PR Property Management

- He did not want Wisian's check back, either.
- He wanted the Town to give Wisian two more weeks to correct the contract.

Anne Moore - 622 Teocalli

- This was a yes for her.
- Wisian was throwing up houses.
- She thought they could trust him.

Schmidt closed the public hearing.

Mitchell suggested the ordinance be moved to the next Council meeting and to amend the contract to a date certain. Haver was comfortable giving Wisian to August 30<sup>th</sup>. Dujardin agreed. MacDonald said the Council could amend and approve the ordinance and the amended contract with the deadline date of August 30<sup>th</sup> to produce the bond. The conveyance would occur once the bond was produced. Yerman recommended the Council continue the public hearing to after item #4 under New Business. They would also amend the contract to be date specific. Green confirmed for Magner the risk was for Phase 1. Magner questioned worst-case scenario if the Council approved. Sullivan confirmed the direction he was hearing. Green did not see any risk to Phase 2 with what was being proposed.

Dujardin moved and Haver seconded a motion to continue Ordinance No. 29, Series 2019 until after #4 on New Business. A roll call vote was taken with all voting, "Yes."

**Motion passed unanimously.**

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

Schmidt read the title of the ordinance, and he confirmed proper public notice had been given. Zillioux described the unit, and he identified the amount for rent. Schmidt opened the public hearing. There was no one who chose to comment, and the public hearing was closed.

Dujardin moved and Bradley seconded a motion to approve Ordinance No. 32, Series 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

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

Schmidt read the title of the ordinance. Yerman acknowledged that the rec path did not exist when McCormick Ranch was platted, and he described the location of the trail. This ordinance correctly reflected the current trail location. Yerman recommended approval.

Schmidt confirmed proper public notice had been given. He opened the public hearing. No one from the public commented, and the public hearing was closed.

Haver moved and Dujardin seconded a motion to approve and adopt the second reading of Ordinance No. 33, Series 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**NEW BUSINESS**

**1) Discussion and Possible Action Regarding Upcoming Construction Activity on Block 80 and Associated Noise.**

Earley reported that the Slate River Development needed to connect to Town's sanitary sewer system. He described associated work, including a new lift station, manhole, and sanitary sewer main. The contractor expected a large amount of groundwater, and he recommended the use of a diesel powered generator to manage the groundwater in the excavation. Earley identified the alternative was to get power directly from the grid, which was single-phase power that may not be adequate to manage the water. He recognized the generator would need to run all night for three to four weeks. Earley stated they were doing Town a service by replacing the lift station with a brand new one. Magner wondered if it would be possible for the noise to cease on nights and weekends. Earley explained reasons it was not possible. The discussion turned to solutions with lesser noise.

Green redirected the Council's attention to the Code provision cited in the staff report. Schmidt thought three to four weeks would be a horrible burden on the neighbors.

MacDonald confirmed Town was obligated to provide water and sewer to the development. There was discussion on the cost to use the electrical grid and whom would bear the cost. Schmidt outlined the options.

Schmidt opened the meeting for comments from the neighbors present at the meeting.

Trevor Main - 14 10<sup>th</sup> Street

- He almost lost his mind the last time a generator was run.
- It was a huge burden on him.
- He could hear the noise over his TV at a reasonable level.

Mike Horn - 7 10<sup>th</sup> Street

- There had been pumps running illegally 24 hours a day.
- There was not a good precedent of trust and consideration.
- They were asking for basic humane conditions.

Sioux Emery - 902 Butte Avenue

- She asked if the contractor could use electric generators at night.

Kevin Emery - 902 Butte Avenue

- He did not like practicality before people.
- He did not want the noise for six weeks.

Tim Szurgot

- Asked if the work could be done during a low water year.

John Hess - 324 Sopris Avenue

- Cited the sale price of lots in the development.
- He confirmed the developer bore the cost.

John Stock

- He acknowledged there were other options, and he explained how he had three-phase power in his shop.
- He stated the blue foam was not effective for noise.

Schmidt did not think diesel was the option. The developer needed to insulate for sound or use electric. He thought electrical would be as quiet as could be. Mitchell thought they should insist on electric. Haver was not comfortable with approving the diesel pump. The contractor needed to go back to find a better solution. Green reminded that the (prohibited noise) ordinance was in effect. Dujardin recommended they instruct the contractor to figure it out. Magner did not want the community burdened by the noise, and the Code prohibited it. She was not comfortable with waiving rules that affected citizens.

Haver moved and Mitchell seconded a motion that the diesel generator as presented was not an acceptable solution. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

## **2) Proposal for 2020 CBCS Student Led Affordable Housing Build.**

Yerman informed the Council that Student Organization Achieving Results (SOAR) approached Town. The program had taken off, and they were looking for an additional place to build this year. Staff would present two options. Option 1 would be teaming up with the Nordic Center to build on Lot 1. The build would be comprised of an affordable housing unit and a cat barn to include a restroom. Option 2 would be to build another Town rental on the micro lot. Yerman recognized it was important to maintain the neighborhood context with Option 1. He did not know of a housing solution other than Option 1 for Lot 1 due to the flood plain. He reviewed contributions proposed by the Nordic Center. Mitchell suggested they take input from the neighbors.

Executive Director of the Nordic Center, Christie Hicks, identified those in attendance in support of Option 1. She described growth they had experienced. She acknowledged that residents would have access to the rec path trail that was free. Their need for additional storage would not change. The cat barn would eliminate the crossing at 135. Hicks spoke about the noise from a snow cat. Heating the concrete pad would eliminate idling. The snow cat would need to back up, which would be loud and annoying. She stated Nordic was not interested in angering the neighbors. The cat barn would help to alleviate congestion at Big Mine. Mitchell questioned how they would fuel up the snow cat.

John Stock described the SOAR program. They did not have a lot of funding but were hoping to evolve to the kids making the decisions regarding the people who would move into the houses. Once the program became self-funding, the school would handle the money. Schmidt thanked Stock for the Paradise Park builds.

Mike Horn - Lives across from Lot 1

- He wanted to know what the master plan was for Paradise Park.
- It was like the Wild West in terms of usage.
- Everything was funneling into this area.
- It would be ideal for Lot 1 to be residential.

Trevor Main - 14 10<sup>th</sup> Street

- It was crazy how much use the zone had. It was frustrating.
- Adding more use to a zone that was already used a lot concerned him.
- The area was designed to be residential.

Anne Moore - 622 Teocalli

- She asked who would be cleaning the public restroom. Yerman responded. He said the resident would have a good deal in order to look after the restroom.

Yerman added that a changing room was needed. He identified areas that had two rights of way.

Sioux Emery

- There were people pumping up their boats at 6AM.
- She suggested using the area around the school for the snow cat. Hicks responded. The Nordic Center would help to develop a lot that otherwise would not be developed. Hicks encouraged the Council to look at the big picture problems solved with Option 1.

Noel Durant - Crested Butte Land Trust

- The Peanut Mine property was a mess. He was encouraged by the community-based solution with Option 1.

Mitchell was comfortable with Option 1. Dujardin was too. Bradley agreed. Haver thought there needed to be an agenda item to discuss dealing with traffic in the area. He was okay with Option 1, so was Magner. She agreed with Haver's thoughts. Schmidt agreed with the Council to proceed. There was discussion on process moving forward. Yerman reviewed conditions that BOZAR could place and designs that would reduce impacts to the neighborhood.

**3) Ordinance No. 28, Series 2019 - An Ordinance of the Crested Butte Town Council Approving: (1) the Assignment of the Town's Conservation Easement in Kikel Parcel A to Crested Butte Land Trust, (2) the Termination of the Town's Covenant to Limit Development on Kikel Parcel A, and 3) Granting New Conservation Easement to Crested Butte Land Trust in Exchange for the Conveyance of Kikel Parcel A from Crested Butte Land Trust to the Town of Crested Butte.**

Schmidt read the title of the ordinance. Yerman stated the ordinance represented the transfer of the Conservation Easement (CE) from the Town to the Land Trust with the Town taking ownership of Parcel A. He explained it was part of the commitment to Long Lake, and he listed the wins associated with the open space project. They discussed several options for the structure, including a new option for a campground, which could be put in for less money than a campground at Avalanche Park. Yerman mentioned the possibility for a stewardship cabin. The area was at a point that human presence could be needed in the next twenty years. The CE was amended since the last meeting in that if Town moved forward with a cabin, Town would make a contribution back to the RETT fund. If the Council decided to build the cabin, it would be a deliberate act.

Executive Director of the Land Trust, Noel Durant, explained funding mechanisms and conservation easements. The Land Trust was the willing seller. He could not think of a better long-term project for the Slate River Valley. Schmidt summarized that instead of a 5,000 square foot house there could be a 2,000 square foot cabin that would take a deliberate action from a future Council requiring \$80,000 from the General Fund to repay the RETT.

Schmidt opened the meeting to public comment.

Jim Martin - Resident at Alpine Meadows

- The residents at Alpine Meadows supported a sale that was oriented around conservation values.
- They believed the CE presented at the last meeting was too broadly written, and their suggested changes were not incorporated into the new CE.
- They felt the public camping option should be taken off the table, which Yerman confirmed to be out of the picture.
- He wanted to discuss the parking lot. They thought it should be built after the Town structure.
- Listed issues that remained since the July 2<sup>nd</sup> meeting.
- Yerman differentiated between a stewardship campground and a public campground.

Dave Ochs - 801 Red Lady Avenue

- He applauded the collaboration of the towns and the Land Trust.
- It was an opportunity for human stewardship before people travelled into the corridor.
- 24/7 presence was important.
- There were massive issues with people pulling up and setting up tents.
- We were already way behind what was happening in the backcountry.

Bert Phillips - Lives at Alpine Meadows

- He asked if the Town would be responsible for bathrooms, garbage, and negative impacts in their neighborhood.
- It would be comforting to neighbors to know where the buck stopped. Schmidt said the Town would be responsible. Durant spoke to the Land Trust's role regarding the CE.

John Hess

- He referred to the CE itself. He suggested changes to language.
- He questioned how many information centers were needed.
- The bigger question was what they were doing with the Slate River Valley.

Brian Lieberman - From the Crested Butte Land Trust

- People were moving boulders and pulling out signs. Human presence was the only thing helping.
- The main intent was to have someone onsite, not to have an attraction to draw people.

Jim Starr

- When the Land Trust purchased the parcel, they had to set aside to make the deal.
- It was a win-win situation.
- He encouraged the Council to set the ordinance for public hearing.

Bert Phillips

- He asked whether they would have the authority with enforcing all of the rules being violated.
- They needed the equivalent of a nature cop.
- There needed to be an enforcement arm.

Dave Ochs

- There was a lot of discussion on more enforcement.
- Human presence helped with behavior.

John Hess

- He supported the Town purchasing the land.

Christie Hicks

- All of these things supported the needs identified by the STOR Committee.

Peter Dea - Member of the Land Trust's Lands Committee

- They thought with all of the use, there would be years of discussion on what could be there. The CE gave maximum leverage for the uses going forward.

Dujardin identified language on enforcement that he wanted cleaned up, and Schmidt recommended a change to replace an "or" with an "and/or."

Mitchell moved and Haver seconded a motion to set Ordinance No. 28, Series 2019 as amended to public hearing on August 19<sup>th</sup>, 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

#### **4) Amendment to Contract to Buy, Sell, and Develop Deed Restricted Housing in the Town of Crested Butte's Paradise Park Subdivision with Bywater, LLC.**

Sullivan pointed out changes to the contract on pages 120 and 121 in the packet. Ordinance No. 29 was amended for consistency with changes to the contract. If the amendments were not performed, there was no conveyance, and if the bond received by the Town looked like Exhibit E to the contract, the requirement would be fulfilled. There were additional changes to wording for consistency that were discussed. Wisian wanted explicit wording in the amendment to the contract that the bonding for Phase 1 was being rescinded.

Haver moved and Dujardin seconded a motion to approve the amendments to the contract to buy, sell, and develop, and the official verbiage is John's copy. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

### **PUBLIC HEARING CON'T**

#### **1) Ordinance No. 29, Series 2019 - An Ordinance of the Crested Butte Town Council Authorizing the Transfer of Town-Owned Property Legally Described as Lot 6**

**Block 78 and Lots 4, 10, and 11 Block 79, Paradise Park Subdivision, Town of Crested Butte, County of Gunnison, State of Colorado to Bywater, LLC for the Construction of Affordable Housing.**

The public hearing had already been closed. Schmidt confirmed with Sullivan and Green that the Council could pass the ordinance as amended.

Dujardin moved and Bradley seconded a motion to approve the amended Ordinance No. 29, Series 2019. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**NEW BUSINESS CONT**

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

Yerman recommended continuing the resolution contingent upon Phase 2 moving forward. He was working on a comprehensive update with the Housing Authority. Dujardin was concerned there had not been enough public process and Haver about wording that he related to the ADU case. Dujardin reiterated they needed a conversation with the public and amongst the Council. He recommended an agenda item for discussion at the next meeting.

Mitchell moved and Dujardin seconded a motion to continue Resolution No. 12, Series 2019 to September 3<sup>rd</sup>. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**6) Discussion on The Corner at Brush Creek.**

Schmidt and MacDonald attended the County meeting today where the Commissioners discussed giving Gatesco one more year for the project. MacDonald summarized the decision she outlined in an email. October 31<sup>st</sup> would be a hard stop. They talked about setting up a meeting between Crested Butte and Mt. Crested Butte, and they would invite Tim Baker and the proponent to the meeting. They picked out dates of August 21<sup>st</sup> and 27<sup>th</sup>. Alternative dates and times were discussed. Schmidt referred to an email sent by Kendall Burgemeister on Gatesco's behalf. MacDonald asked the Council to discuss possible topics for the agenda. The discussion went back to dates. Dujardin expressed frustration with the process in general.

Kendall Burgemeister

- The conditions collectively imposed were tough to grapple with.
- The 156 (units) seemed like the big condition. They asked for flexibility on the other conditions.
- He mentioned other considerations for feasibility.

There was further discussion on the logistics of the next joint meeting, with August 21<sup>st</sup> and August 27<sup>th</sup> identified.

### LEGAL MATTERS

None

### COUNCIL REPORTS AND COMMITTEE UPDATES

Laura Mitchell

- Attended a Scenic Byways meeting. They were now a 501(c)(3). They talked about a \$150 member fee for towns on the Byway.
- Attended a Mountain Express meeting where others wanted to do a survey with RTA. They talked about a strategic agenda working towards more sustainable busses.
- There would be a RTA meeting on Friday.

Will Dujardin

- He attended the Mountain Express meeting. They approved the strategic plan. Ridership matched Town sales tax. They saw a drop in ridership this summer. He reported regarding the situation and his thoughts with the town taxi situation. He recognized it was a deeper, long-term conversation that needed to happen.
- The Upper Gunnison River Water Conservancy District reported things were pretty good. Area reservoirs were full. The Colorado River District reported that it would take eight to ten years like this one to fill Lake Powell.
- He attended a public meeting for ranchers to discuss the economic effects on ranching on the valley. The ranchers' comments were questioning why they would give ideas that would curtail their rights. There was more momentum on mandatory curtailment.
- The Growing Waters Smart group met. They wanted to look at a speaker series on water.
- The Climate Action Planning meeting was productive. They identified four action items.

Candice Bradley

- She went to The Center's board meeting. They were now in compliance with insurance. They talked about follow up meetings with Town to discuss financial shortcomings. Their construction bills were coming due.
- The Trailhead was moving into the lobby of the old Center.
- They were shooting for 100% completion in December.

Chris Haver

- He had an OVLC meeting. There was a DOLA presentation. He pointed out the link to the survey in the packet.
- At the upcoming meeting, they would look at possible ways to improve the recycling program.

Jim Schmidt

- They had the Climate Action stakeholder meeting on the 31<sup>st</sup>.
- Went to mayor/managers on August 1<sup>st</sup>. Frank Kugel, from the Upper Gunnison River Water Conservancy District, applied for a different job and may be leaving. Blue Mesa was five inches from going over the spillway.
- The Gunnison Housing Foundation would be having a fundraiser at the I Bar.
- The hospital was filling management spots.

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

- The Council discussed scheduling the demolition work session. They decided upon August 20<sup>th</sup> at 6PM. Magner received information from Bob Gillie she would send to the whole Council.
- Schmidt pulled a petition for Mayor.
- CC4CA had been notified of the approval on the Consent Agenda.

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

- *Tuesday*, August 13, 2019 - 4PM to 6PM Retreat to Discuss Budget for 2020
- Monday, August 19, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- *Tuesday*, September 3, 2019 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, September 16, 2019 - 6:00PM Work Session - 7:00PM Regular Council

MacDonald reminded the Council of the budget work session on August 13<sup>th</sup>.

#### **EXECUTIVE SESSION**

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

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

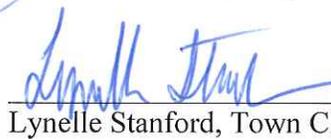
The Council went into Executive Session at 11:18PM. They returned to open meeting at 11:53PM. Mayor Schmidt made the required announcement upon returning to open meeting.

Haver moved and Dujardin seconded a motion to negotiate with the library and to appoint Jim, Dara, and Candice as the negotiating team. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**ADJOURNMENT**

Mayor Schmidt adjourned the meeting at 11:55PM.

  
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James A. Schmidt, Mayor

  
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Lynelle Stanford, Town Clerk (SEAL)

