

**MINUTES
CARBONDALE BOARD OF TRUSTEES
REGULAR MEETING
JULY 24, 2018**

Mayor Dan Richardson called the Board of Trustees Regular Meeting to order on July 24, 2018, at 6:00 p.m. in the Town Hall meeting room.

ROLL CALL:

The following members were present for roll call:

Mayor	Dan Richardson
Trustees	Marty Silverstein
	Erica Sparhawk
	Lani Kitching
	Heather Henry

Arrived After Roll Call	Luis Yllanes
	Ben Bohmfalk

Staff Present:

Town Manager	Jay Harrington
Town Clerk	Cathy Derby
Town Attorney	Mark Hamilton
Town Attorney	Tarn Udall
Finance Director	Renae Gustine
Police Chief	Gene Schilling
Public Works Director	Kevin Schorzman

CONSENT AGENDA

- Accounts Payable totaling \$370,782.98
- BOT 7/10/18 Regular Meeting Minutes
- Resolution No. 9, Series of 2018 – Right of First Refusal to Purchase 547 Jacob’s Place
- Liquor License Renewal Application – El Pollo Rico
- Ordinance No. 12, Series of 2018 – Amending Chapter 17 of the UDC Concerning Off-Street Parking

Trustee Sparhawk made a motion to approve the Consent Agenda. Trustee Kitching seconded the motion and it passed with:

5 yes votes: Silverstein, Sparhawk, Richardson, Kitching, Henry

PERSONS PRESENT NOT ON THE AGENDA

Holly McLean, Upper Cattle Creek, stated she is a member of the Roaring Fork Valley Horse Council. The Council is asking the Board for a letter of support to the BLM urging the BLM to keep the newly acquired Sutey Property accessible to horse riders and hikers only. She stated that mountain bikes move fast and scare the horses. They are asking for one place where they can ride without bikes.

Pamela True, County Road 112, stated that she is concerned that if bikes are allowed on the property there will be heavy traffic in her neighborhood. She noted that the BLM has not irrigated the property and it is extremely dry. She wants the pristine neighborhood to remain as it is.

Trustee Bohmfalk arrived at the meeting.

Susan Kuzio, Kings Rows, stated that she likes to take small children hiking and she feels unsafe taking them on trails that allow mountain bikes. She wants the Sutey Property to be for horse riders and hikers only.

Susan Bantis, County Road 112, stated that Mr. Sutey loved people riding horses on his property and he was not a big fan of mountain bikers.

Leslie Thomas, E. Sopris Creek Road, supports everything that has been said thus far. They need a place close by to ride horses. The traditional use of the property has been horseback riding. It's important that the water rights stay with the property. She noted that the Haines parcel needs parking.

Charlie Bantis, County Road 112, stated that he is a mountain biker. He has seen interactions between bikes and horses and it's not good. Equestrians need a place to ride free of mountain bikes.

The Boards agreed not to take action at the meeting because the timing is too tight and they want to hear from all sides before making a final decision.

Trustee Yllanes arrived at the meeting.

TRUSTEE COMMENTS

Trustee Sparhawk stated that she attended the Chamber Board Meeting. Andrea Stewart wants to follow up on the Start-Up Colorado workshop. She also told the Board that Pink Bike did a video shoot on mountain biking trails in the area. Trustee Sparhawk also attended the Colorado Communities for Climate Action Police Committee meeting. They decided on policy agenda items and they need the members to sign off on them. One of the policy items is they want the State to adopt emission standards for cars.

Twelve states have adopted them and the standards are all the same. Another policy item is to have members adopt the most recent energy code.

Trustee Henry stated that she attended the Environmental Board meeting last night. Building official John Plano also attended and they had a discussion on the energy code. No conclusions were reached, it's an on-going process. Also at the meeting Laurie Batchelder Adams, the Town's trash consultant, presented her recommendations for the waste ordinance. There were seven simplified recommendations and the Board voted on each. Lastly, the E Board wants Waste Diversion Day to be a program.

Trustee Silverstein thanked the first responders battling the Lake Christine Fire. He also thanked Ron Goodman, Jay and Gene for coordinating the Town's response to the fire.

Trustee Kitching stated that she attended the Carbondale to Crested Butte trail meeting. They discussed the environmental impacts versus recreation. July 27th is the deadline for comments and it can be done on line.

Trustee Kitching informed the Board that a request has been made to the Ruedi Water and Power Authority (RWAPA) to use Ruedi water to extinguish the Lake Christine fire. RWAPA does not know what impact it will have on the reservoir's environment. Jay told the Board that the Town has Ruedi water rights.

Trustee Kitching stated that she attended the Senior Matters meeting and went on the radio to discuss senior housing. There is little to no senior housing available in the valley.

Trustee Yllanes told the Board that he attended the Parks and Recreation meeting. The Commission is applying for a GOCO planning grant for the pool. They may also be applying for a mini FMLD grant.

Mayor Richardson stated that he attended the RFTA Board meeting. They are considering putting a mill levy question on the November ballot. The RFTA Board is still unsure what amount of mill levy to endorse. They continue to poll the public. A final decision will be made at their August meeting. At the same meeting they did not take any action on their E bikes policy.

ATTORNEY'S COMMENTS

The attorney did not have any comments.

SPECIAL EVENT LIQUOR LICENSE – STEPPING STONES – COWBOY UP!

Stepping Stones has applied for a Special Event Liquor License for Cowboy Up!. All fees have been paid and the Police Department has reported no problems with the applicant or the premises.

Trustee Silverstein made a motion to approve Stepping Stone's Special Event Liquor License. Trustee Henry seconded the motion and it passed with:

7 yes votes: Kitching, Bohmfalk, Silverstein, Sparhawk, Richardson, Yllanes, Henry

CRMS WATER DEDICATION AGREEMENT AMENDMENT

Kevin explained that in 1990 the Town and CRMS entered into an agreement governing water dedication related to 57.77 acres of property owned by CRMS. CRMS was annexed into the Town in 1979. Since the time of annexation CRMS has sold 39 acres and currently owns approximately 18.8 acres.

Each time development has occurred differences of opinion have existed relating to the appropriate number of shares of Rockford Ditch stock that should be transferred to the Town to meet the requirements contained in the agreement. These differences of opinion have resulted in increased cost to both the Town and CRMS.

In an attempt to simplify future water dedication requirements for development on the remainder of the 39 acres, the Town and CRMS have agreed that 5.6 shares of Rockford Ditch stock will be given to the Town for every acre that is either sold to a third party or developed directly by CRMS.

In addition, the amendment stipulates that CRMS will transfer an additional 88.2 shares of Rockford Ditch stock to the Town within 30 days of the execution of the amendment to satisfy the 5.6 shares per acre requirement for the entire 39 acres that have already been sold to a third party. Adding these 88.2 shares to the 130 shares already received by the Town, the Town will own 218.2 shares of the required 323.5 shares for the 57.77 acres that were originally annexed.

Kevin stated that the Agreement needs a modification to the number of acres and staff would like to change the referenced "Exhibit A" to the recordation number.

Trustee Yllanes disclosed that his wife works at CRMS.

Trustee Sparhawk made a motion to authorize the Mayor to execute the First Amendment to the Carbondale-Colorado Rocky Mountain, Inc. Water Dedication Agreement, 1989 with a modification to the acreage and changing the referenced Exhibit A to the recordation number. Trustee Yllanes seconded the motion and it passed with:

7 yes votes: Bohmfalk, Silverstein, Sparhawk, Richardson, Yllanes, Henry, Kitching

CRYSTAL WELL EASEMENTS

Kevin explained that over the years the Town has developed infrastructure related to the Crystal Wells on property owned by the Daughertys. In the 1990's the Town and the Daughertys worked on an agreement related to the Town acquiring necessary easement related to the existing wellhouse. However, that agreement was never finalized.

The Daughertys are selling their house and they want to "clean up" the easements.

The Daughertys will grant easements to the Town to the east and south of the wellhouse. In exchange, the Town will quit claim to the Daughertys easements that were associated with a new wellsite. Attempts to develop a well on that site were unsuccessful so the easement is unnecessary. The Town will also quit claim to the Daughertys a 0.21 acre parcel that is not necessary to reach the wellhouse infrastructure.

Trustee Bohmfalk questioned why we are giving away 0.21 acres without compensation. He also questioned if the Town can give away land without a vote.

Kevin explained that he was unable to find any record of the Town acquiring the 0.21 acres. He informed the Board that the Town can give the land away because it has not been used for municipal purposes.

Trustee Silverstein made a motion to authorize the Mayor to execute the Quit Claim Deed conditioned upon the receipt of a Warranty Deed from the Daughertys granting the aforementioned water line easements to the Town. Trustee Henry seconded the motion and it passed with:

7 yes votes: Henry, Silverstein, Sparhawk, Yllanes, Richardson, Kitching, Bohmfalk

NEW CASTLE LETTER OF SUPPORT FOR LOVA TRAIL GRANT

The Town of New Castle has asked the Town of Carbondale to write a letter of support to the Colorado Parks and Wildlife Division supporting the Lower Valley (LoVa) Colorado River Trail.

Discussion ensued.

Mayor Richardson stated that the trail would make New Castle whole. They are asking for an endorsement, they are not asking for money.

Trustee Bohmfalk noted that without this trail there is no way to get safely through the valley unless you are in a car/bus.

The Mayor will sign the letter supporting the LoVa Trail.

ORDINANCE NO. 13, SERIES OF 2018 – RAISING THE AGE TO PURCHASE TOBACCO AND VAPING PRODUCTS

At the July 10th BOT meeting the Board directed staff to prepare an ordinance raising the age to purchase tobacco and vaping products to 21 for consideration of approval at the July 24th meeting.

Mandy Ivanov, of Eagle County Public Health, informed the Board that Colorado leads the nation in youth vaping. She encouraged the Board to license stores selling tobacco and vaping products because it's easier to penalize violators.

Tarn stated Tobacco 21 suggested changing "minor" to "persons under the age of 21" and she agreed that this is a good change.

Trustee Sparhawk stated that she was worried about starting off with fines and she questioned the need to penalize youth. Mayor Richardson responded he thinks it's good to penalize youth, it sends a message you can be fined. The police policy is to educate.

Gene stated that he likes the ordinance as it is.

Trustee Henry stated that it makes sense to license the establishments. Mayor Richardson stated that if raising the age to 21 doesn't have much of an effect we can move to licensing. We need to be proactive; the police need to do several stings and report back to the Board.

Trustee Sparhawk stated that we need to follow-up with Rep. Rankin and see what the state can do. Mandy stated that changing the age to 21 needs to happen at the State level.

Trustee Henry stated that the state needs to put pressure on the federal government to outlaw internet sales of vaping products.

Trustee Henry made a motion to approve Ordinance No. 13, Series of 2018 raising the minimum age for the purchase, possession, and consumption of tobacco products and to establish the minimum age for the purchase, possession, and consumption of electronic smoking devices and related substances with the following amendment: "minor" shall be changed to "persons under the age of 21". Trustee Silverstein seconded the motion and it passed with:

7 yes votes: Henry, Silverstein, Yllanes, Sparhawk, Bohmfalk, Kitching, Richardson

RETAIL MARIJUANA STORE EXCISE TAX

At the June 26, 2018, Board of Trustees meeting, Renee Grossman, owner of High Q Retail Marijuana Store, asked the Board if they would put the topic of lowering or eliminating the 5% retail marijuana excise tax on a future agenda; the Board agreed.

In 2013, Carbondale votes approved a 5% sales tax on the sale of retail marijuana and retail marijuana products by a margin of 1,164 to 425.

Renee Grossman stated that she is asking the Board for a level playing field with the other businesses in Carbondale. The tax hampers business because it overtaxes citizens. She would like Carbondale's tax to be competitive with neighboring towns.

Mark stated that the ordinance gives the Board the authority to reduce the tax but he doesn't think it can be raised again without another vote.

Trustee Henry stated that the voters passed the tax. What is the case to go against the voters? Renee explained that Carbondale was one of the first towns to allow retail marijuana. People weren't sure what would happen. Four years later the market is more competitive and shoppers have a lot of choices.

Trustee Silverstein stated that the marijuana sales tax revenue is going up every year. There is no indication that the shoppers are going elsewhere.

Jay stated that the town has significant costs administering marijuana licenses.

Trustee Bohmfalk said Breckenridge has some of the highest sales and they have a 5% sales tax – how do you explain that? Renee explained that Breckenridge is a tourist town and the tourists don't go elsewhere to shop.

Trustee Henry stated that she would only change the tax after bringing the question back to the voters. We cannot make assumptions that the voters want to reduce or eliminate the tax.

Trustee Silverstein said High Q has been in business less than one year. He asked are you not meeting your sales expectations? Renee responded that sales are meeting her expectations.

Mayor Richardson opened the meeting to public comment.

Alva Silva, Highway 133, said Carbondale has a high cost of living. He asked with all of these taxes what are you giving back to the citizens? A lot of people go to other towns to purchase their marijuana. He encouraged the Board to drop the tax.

Trustee Yllanes stated you are the newest retailer and we are not hearing from the other store owners.

Mayor Richardson suggested that Renee inform her customers how the town spends the marijuana tax revenue.

Trustee Kitching stated that we are not tackling consumer behavior. Time and fuel also factor in to where people buy their marijuana.

The Board agreed that they did not want to lower or eliminate the retail marijuana store excise tax.

APPROVAL OF REVOLVING LOAN FUND – LACY HUGHES

The Town of Carbondale Revolving Loan Fund Review Committee approved a loan request and the Committee is requesting that the Board release the loan funds for applicant Lacy Hughes.


Trustee Bohmfalk made a motion to release the revolving loan funds to applicant Lacy Hughes. Trustee Sparhawk seconded the motion and it passed with:

7 yes votes: Silverstein, Richardson, Henry, Bohmfalk, Kitching, Yllanes, Sparhawk


ADJOURNMENT

The July 24, 2018, regular meeting adjourned at 8:35 p.m. The next regularly scheduled meeting will be held on August 14, 2018, at 8:30 p.m.

APPROVED AND ACCEPTED


Dan Richardson, Mayor

ATTEST:


Cathy Derby, Town Clerk