

**MINUTES  
CARBONDALE BOARD OF TRUSTEES  
REGULAR MEETING  
APRIL 9, 2019**

Mayor Dan Richardson called the Board of Trustees Regular Meeting to order on April 9, 2019, at 6:00 p.m. in the Town Hall meeting room.

**STUDENT OF THE MONTH**

The following students from Ross Montessori School were awarded a Certificate of Achievement from Mayor Richardson:

Reed Russell

Faye Van Moorsel

**ROLL CALL:**

The following members were present for roll call:

Mayor  
Trustees

Dan Richardson  
Erica Sparhawk  
Lani Kitching  
Heather Henry  
Ben Bohmfalk

Late:

Marty Silverstein

Absent

Luis Yllanes

Staff Present:

Town Manager  
Town Clerk  
Finance Director  
Town Attorney  
Town Attorney  
Public Works Director  
Planning Director  
Parks and Recreation Director

Jay Harrington  
Cathy Derby  
Renaë Gustine  
Mark Hamilton  
Tarn Udall  
Kevin Schorzman  
Janet Buck  
Eric Brendlinger

### CONSENT AGENDA

- Accounts Payable totaling \$399,672.46
- BOT 3/12/2019 Regular Meeting Minutes
- BOT 3/19/2019 Special Meeting Minutes
- Liquor License Renewal – Pour House
- CLEER Consulting and Service Agreement
- Modification of Premises/Revocable License Agreement – Phat Thai
- Liquor License Renewal – Sopris Liquor & Wine
- Modification of Premises/Revocable License Agreement – Black Nugget
- Ratification of Settlement Agreement & Release – Tumbleweed, LLC
- Rocky Mountain Landscaping Highway 133 Irrigation Contract
- Bike Park Maintenance Contract

Trustee Henry inquired if the definition of illumination in Tumbleweed's Settlement is sufficient. Jay responded yes, and they have to abide by the Municipal Code regardless.

Jay noted that the Irrigation contract is missing standard language which will be added.

Trustee Bohmfalk asked that the Board have a discussion on restaurant/bar decking in January.

Trustee Sparhawk abstained from voting on the CLEER Consulting and Service Agreement. Trustee Bohmfalk made a motion to approve the Consent Agenda. Trustee Kitching seconded the motion and it passed with:

*5 yes votes: Richardson, Bohmfalk, Henry, Sparhawk, Kitching (with the exception of the CLEER Agreement – 4 yes votes; Sparhawk abstain)*

### PERSONS PRESENT NOT ON THE AGENDA

There was no one present who wished to address the Board.

### TRUSTEE COMMENTS

Trustee Henry informed the Board that the Friends of Carbondale Public Gardens submitted a proposal to Roaring Fork Leadership for a garden project and it was accepted. They are working to identify how to help the Town and where their organization should be housed. They are having a meeting at the Marble Distillery on April 11<sup>th</sup> at 6:00 p.m. The meeting is open to anyone with an interest in gardening, and/or helping with open space. They are looking for leadership and volunteers.

Trustee Sparhawk told the Board that Colorado Communities for Climate Action is having a planning retreat on June 27<sup>th</sup>. The town will have one vote on changes to the organizational structure, and finalizing the policy agenda.

Trustee Bohmfalk stated that he and Trustee Sparhawk met with newly elected Aspen City Council member Skippy Mesirov to discuss Roaring Fork Valley issues.

Trustee Bohmfalk announced that Coventure will be hosting a Pitch Night on Friday April 12<sup>th</sup> at 7:00 p.m. at the Third Street Center.

Trustee Bohmfalk stated that the Garfield County Commissioners have declared Garfield County a Second Amendment Preservation County in reaction to the recent passage of the Red Flag Gun Bill. Trustee Bohmfalk stated that he can't imagine that we live in a county where we don't want to be able to remove a gun from a mentally unstable individual. The order to remove a gun can only be made by a judge. Trustee Bohmfalk wants to know how the police chief feels about this.

Trustee Kitching attended the Garfield Economic Development meeting. They discussed designated co-working space in Rifle (Coventure), Glenwood Springs (Community Builders) and Stewart McArthur in Parachute, and the Garfield County Libraries.

Trustee Kitching stated that she attended the VCAPS presentation. The presenters gave a clear understanding of climate effect. She also attended the Colorado River District presentation where the same climate drivers were addressed. Trustee Kitching and Mark O'Meara attended the Water Shed Biodiversity Initiative meeting.

Trustee Kitching stated that Senior Matters is getting ready for Dandelion Day.

Mayor Richardson thanked staff for another great First Friday.

Mayor Richardson thanked Trustee Henry and Jay for moderating the VCAPS meeting. Dan told the Board that a VCAPS follow-up discussion has been added to the April 16<sup>th</sup> Agenda.

Mayor Richardson told the Board that he went to Washington D.C. to advocate for the CORE Act.

Mayor Richardson asked the Board if anyone could attend the Building Better Communities meeting tomorrow. It's a grassroots effort to address TABOR. Trustee Bohmfalk will attend the meeting.

#### **ATTORNEY'S COMMENTS**

The attorney did not have any comments.

**PROCLAMATION – ARCHITECTURE MONTH**

Mayor Richardson read a proclamation declaring April as Architecture Month.

**SPECIAL EVENT LIQUOR LICENSE – VETERANS EXPEDITION**

Veterans Expedition has applied for a Special Event Liquor License for an event to be held at the Third Street Center. All fees have been paid and the Police Department has reported no problems with the applicant or the premises.

Trustee Sparhawk made a motion to approve Veterans Expedition's Special Event Liquor License. Trustee Kitching seconded the motion and it passed with:

*5 yes votes: Kitching, Bohmfalk, Henry, Sparhawk, Richardson*

**SPECIAL EVENT LIQUOR LICENSE –FESTIVAL LAS AMERICAS**

Festival las Americas has applied for a Special Event Liquor License for their annual fundraiser to be held at Sopris Park. All fees have been paid and the Police Department has reported no problems with the applicant or the premises.

Trustee Sparhawk made a motion to approve Festival las Americas' Special Event Liquor License. Trustee Bohmfalk seconded the motion and it passed with:

*5 yes votes: Bohmfalk, Henry, Sparhawk, Richardson, Kitching*

**SPECIAL EVENT LIQUOR LICENSE – THUNDER RIVER THEATER**

Thunder River Theater has applied for a Special Event Liquor License for an event at the Orchard. All fees have been paid and the Police Department has reported no problems with the applicant or the premises.

Trustee Sparhawk made a motion to approve Thunder River Theater's Special Event Liquor License. Trustee Bohmfalk seconded the motion and it passed with:

*5 yes votes: Henry, Sparhawk, Richardson, Kitching, Bohmfalk*

**ORDINANCE NO. 8, SERIES OF 2019 – REGARDING PAYMENT OF CHARGES FOR THE MUNICIPAL CODE**

Rena explained that currently the Municipal Code states collection of payments ends at noon. The Town is switching to a new credit card company and staff believes it is more efficient to have midnight be the deadline for the collection of payments.

Trustee Silverstein arrived at the meeting.

Trustee Henry made a motion to approve Ordinance No. 8, Series of 2019 regarding Payment of Charges for the Municipal Code. Trustee Sparhawk seconded the motion and it passed with:

*6 yes votes: Silverstein, Henry, Bohmfalk, Kitching, Richardson, Sparhawk*

**PUBLIC HEARING – EMERGENCY ORDINANCE NO. 7, SERIES OF 2019 – WIRELESS FACILITIES**

Janet explained that this is a public hearing for the purpose of considering amendments to the UDC to include regulations related to Wireless Facilities, including Small Cell Antennas.

The Planning and Zoning (P&Z) Commission reviewed the amendments at the March 14<sup>th</sup> and March 28<sup>th</sup> meetings. The P&Z recommended approval but suggested the ordinance be as restrictive as possible because we do not know how they are going to look.

Tarn said the Town is developing these regulations in response to recent developments in federal and state law which require that the Town address certain types of wireless facilities. A State Statute enacted in 2017 gives providers the right to locate small cell facilities on municipal infrastructure in public rights-of-way. The Statute also makes small cell facilities a use-by-right in any zone district. In addition, the new law shortens the timeframe that municipalities must act on an application which is 90 days for complete applications for new small-cell facilities and 150 days for other facilities. Tarn said that a provider can request multiple facilities in a consolidated application/single permit. There can be no discrimination amongst providers.

Tarn said more recently, the FCC approved new rules to streamline deployment of small cell technology. This includes new “shot clocks” for processing small cell applications which is:

- 60 days for small cell facilities on city infrastructure
- 90 days from when complete application – new standalone
- 150 days for new wireless facilities – excluding small cell

The FCC rules limit permit fees municipalities can charge providers and prohibits municipalities from adopting regulations that “materially inhibit” small wireless facility deployment. The reason for the emergency ordinance is that municipalities have until April 14 to adopt regulations/design standards for new small cell antenna facilities. Tarn noted the FCC order is being challenged in federal court.

Janet said that as far as the structure of the new regulations, the land use table was amended to include the Wireless Facility uses and design standards were developed for each use. Tarn and Janet both emphasized that the Town needs to stay engaged in

this topic as it will be an evolving process as these facilities are deployed. We can see how it works in other communities and make any necessary amendments to the regulations in the future.

Janet stated the Town can charge a fee for the application but it needs to be reasonable. The Board agreed to have a discussion on fees in May.

Mayor Richardson opened the meeting to public comment. There was no one present who wished to address the Board so Mayor Richardson closed the public hearing.

Trustee Sparhawk made a motion to approve Ordinance No. 7, Series of 2019 regarding wireless facilities. Trustee Bohmfalk seconded the motion and it passed with:

*6 yes votes: Sparhawk, Bohmfalk, Kitching, Richardson, Henry, Silverstein*

### **PICKLEBALL MEMORANDUM OF UNDERSTANDING (MOU)**

Eric explained that the MOU between the Town and the Roaring Fork Pickleball Association (RFPA) agrees/allows for the following:

- RFPA may fundraise for the construction of the pickleball courts
- RFPA may seek sponsorships and recreation amenity naming rights
- Begin the process of seeking proposals for a RFQ/RFP for the construction of the courts
- RFPA is willing to fund the design/build project in exchange for dedicated RFPA access to the courts at pre-determined times
- RFPA may use the courts for fundraising
- The courts will be town owned, on public park land and open to the public
- The town is acting as the project manager

The MOU initial term is five years.

Staff recommended the Board approve the Memorandum of Understanding.

Trustee Sparhawk made a motion to approve the Pickleball Memorandum of Understanding between the Town and the Roaring Fork Pickleball Association. Trustee Kitching seconded the motion and it passed with:

*6 yes votes: Kitching, Richardson, Bohmfalk, Henry, Sparhawk, Silverstein*

### **RENEWAL OF RETAIL MARIJUANA STORE LICENSE – TUMBLEWEED**

Jay explained that the on-going litigation has been settled. Staff recommends approval of the retail marijuana store license application.

Trustee Kitching made a motion to approve Tumbleweed's retail marijuana store renewal application. Trustee Sparhawk seconded the motion and it passed with:

*6 yes votes: Silverstein, Sparhawk, Henry, Richardson, Bohmfalk, Kitching*

**PUBLIC HEARING – P&C EXPRESS, LLC AND DURANGO ALTERNATIVE, LLC  
NEW MEDICAL MARIJUANA CULTIVATION APPLICATIONS**

Applicant: CMED, LLC

Location: 615 Buggy Circle, Carbondale, CO

Staff asked the Board to continue the public hearing to May 14, 2019 in order to give the applicant time to update their local agent.

Trustee Bohmfalk made a motion to continue the P&C Express, LLC and Durango Alternative, LLC public hearing to May 14, 2019. Trustee Silverstein seconded the motion and it passed with:

*6 yes votes: Kitching, Bohmfalk, Henry, Silverstein, Sparhawk, Richardson*

**MEADOW WOOD DRIVE RECLAMATION PROJECT CONTRACT**

Kevin explained that the 2019 budget includes funding to replace the pavement and curb and gutter on Meadow Wood Drive. The project consists of reclaiming the pavement, using the reclaimed material to shape a crown into the road, and then repave the road with three inches of asphalt. Prior to the contractor beginning work, our concrete contractor will replace some curb and gutter, and install a sidewalk.

Staff received three bids for the project. Staff recommends awarding the bid to Frontier Paving.

Trustee Kitching made a motion to award the Meadow Wood Reclamation Project bid to Frontier Paving and authorize the Mayor to sign the agreement. Trustee Bohmfalk seconded the motion and it passed with:

*6 yes votes: Henry, Silverstein, Sparhawk, Bohmfalk, Kitching, Richardson*

The Board suggested that Roaring Fork Pickleball Association should be notified about the construction.

**THIRD STREET CENTER UPDATE**

Third Street Center Executive Director Colin Laird and Board members Frank McSwain and Jim Kenney were present at the meeting.

Colin gave an update on the Third Street Center and key points included:

- The solar panels are producing a lot of energy – it's like a little power plant
- Almost all of the businesses who have left went to bigger spaces
- Building renovations total \$4.5 million
- The Center houses 39 organizations with over 100 employees
- There are a lot of tenant meetings and community events
- They are self-supporting by design
- They have completed an LED lighting retrofit
- The parking lot has only 92 spaces and is showing tremendous wear – they would like to expand the parking lot
- They would like to install a ground source heating system which would go under the parking lot. They would also like to install solar canopies
- They want to be the hub of the Town Net Zero District
- They are trying to refinance their debt
- One goal is to create a Social Impact Capital Fund

### **WASTE HAULING CONTRACT**

Kevin stated that at the March 19<sup>th</sup> meeting the Board voted to award the residential, yard waste and town facilities waste hauling contracts to Mountain Waste & Recycling and directed staff to prepare the contracts and bring them back for consideration of approval.

Discussion ensued.

Kevin informed the Board that Mountain Waste & Recycling has been purchased by Waste Connections. Aaron Bradley, representing Waste Connections, and Mike Hinkley and Doug Goldsmith of Mountain Waste and Recycling were present at the meeting.

Aaron stated that Waste Connections is doing business as Mountain and Waste and Recycling and the contract will not change except that they will be providing a 23 gallon trash container. Waste Connections is keeping the local management, they will supply capital when needed and they will focus on the safety culture, bringing it to a higher standard.

A letter from Richard T. Walker opposing the contract was entered in to the record.

There will be one point of contact for customers for information. Mountain Waste & Recycling will produce the information and the Town will distribute it.

Customers can purchase their own bear-proof containers but it is not recommended due to their limited life.

Mayor Richardson opened the meeting to public comment.



Dave Reindel, Wheel Circle, founder/owner of Evergreen Waste, a curbside organic collection service, stated that he is concerned he will be forced out of business due to clause 19 "Optional Direct-to-Customer- Collections Services." The clause states that the contractor may choose to provide additional collection services to the customer including, but not limited to, curbside organic collection. Mike Hinkley stated that Mountain Waste & Recycling already offers curbside compost pick up. Jay noted that the onus is on the customer to find a company for compost service and the Town will not bill for the service.

The Board agreed to amend clause 19 to the following: "The Contractor shall be solely responsible for all marketing, promotion, and billing for any additional collection services and shall not have access to the customer information maintained by the Town utility billing systems."

Monica, 4<sup>th</sup> Street, stated that as a result of this contract she will be paying two and one half times the amount she is paying to VIP trash company. She is very upset because she won't be able to afford this service. Carbondale should stay a free market; she thought Carbondale supported local businesses.

Trustee Bohmfalk made a motion to authorize the Mayor to execute the agreements, with the amendment to clause 19, with Mountain Waste & Recycling for Residential Curbside Trash and Recycling Collection, Trash and Recycling Collection at Town Facilities and Yard Waste Drop Site Collection. Trustee Sparhawk seconded the motion and it passed with:

*6 yes votes: Richardson, Silverstein, Sparhawk, Henry, Bohmfalk, Kitching*

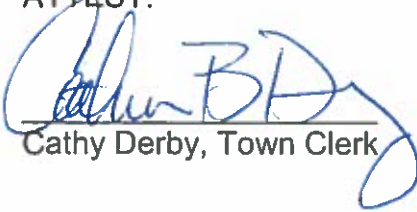
### ADJOURNMENT

The April 9, 2019, regular meeting adjourned at 9:20 p.m. The next scheduled meeting will be held on April 23, 2019, at 6:00 p.m.

APPROVED AND ACCEPTED

  
Dan Richardson, Mayor

ATTEST:

  
Cathy Derby, Town Clerk

