

TOWN OF NEDERLAND AGENDA

REGULAR BOARD OF TRUSTEES MEETING

NEDERLAND COMMUNITY CENTER
750 Hwy 72 Nederland, CO 80466

January 18, 2011

7:00 P.M.

A. CALL TO ORDER

Meeting convened at 7:00 PM.

B. ROLL CALL

Present: Mayor Sumaya Abu-Haidar, Mayor Pro Tem Joe Gierlach, Trustees Chris Perret, Marci Wheelock, Rob Joseph, Keith Nowicki and Kevin Mueller.

Also present: Alisha Reis, Town Administrator, Carmen Beery, Town Attorney, Eva Forberger, Town Treasurer, and Teresa Myers, Town Clerk.

C. CONSENT AGENDA

- Approval of January 18, 2011 Accounts Payable
Motion to approve the Accounts Payable was made by Trustee Mueller, seconded by Trustee Perret, and approved unanimously.
- Approval of December 21, 2010 Regular Meeting Minutes
Motion to approve the December 21, 2010 minutes was made by Trustee Wheelock, seconded by Trustee Joseph, and approved unanimously, with Mayor Abu-Haidar and Trustee Mueller abstaining due to their absence at that meeting.
- Approval of January 4, 2011 Regular Meeting Minutes
Trustee Mueller requested that digital photos be taken before and after during the water meter project. He also asked for further clarification of the mediation language for the MOU sidewalk agreement. Motion to approve the January 4, 2011 minutes was made by Trustee Perret, seconded by Trustee Wheelock, and approved unanimously.

- Approval of Agreement for Sidewalk Maintenance for the DDA.

Mayor Abu-Haidar clarified that she would be voting no on this agreement because of her concerns that there are ambiguities in the contract which will cause problems for both Town and DDA staff in years to come. Trustee Mueller explained that he would be voting no due to his concerns regarding the sustainability issues – particularly the use of chemicals for snow and ice removal. Motion to approve the Agreement was made by Trustee Joseph, seconded by Trustee Wheelock, and voted down by a vote of 3 to 4, with Mayor Abu-Haidar, and Trustees Mueller, Nowicki, and Perret voting no. Staff was directed to work with the DDA on Trustee concerns and return with another draft of the agreement.

D. STAFF REPORTS

1. Alisha Reis, Town Administrator
2. Teresa Myers, Town Clerk
3. Eva Forberger, Town Treasurer
4. Hank Richardson, Public Work Manager
5. Dawn Baumhover, Community Center Coordinator
6. Eric Pendley, Building Department, SafeBuilt

E. BOARD OF TRUSTEE REPORTS

1. Mayor Abu-Haidar clarified that there may be some changes to the Envision 2020 meeting schedule.
2. Trustee Nowicki reported that wildfire mitigation information has been forwarded from Boulder County to Town staff for inclusion in materials disseminated with the water meter project. He further reported that the Community Wildfire Protection Plan is proceeding through the feedback process, but it is not yet finalized.
3. Trustee Joseph reported that the Chamber leadership has not changed hands yet, but will shortly. The Mayor's Task Force on Economic Development will

be convening a meeting on Wednesday January 26, at 6:30PM. Finally, the DDA is launching a public slogan program to have residents submit ideas for a slogan to be displayed on the town tractor and at the street crossings.

4. Trustee Wheelock reported that the Community Center Foundation Board is working on a large fundraising strategy and creating measurable goals for the CCFB over the next year. The next West Wing workshop will be held on February 5th, which is a change from the original schedule. The CCFB is also looking at hosting bingo nights at the Community Center.
5. Trustee Perret reported that the Sustainability Advisory Board will be meeting on January 25th, at the Community Center at 7:00PM and will be evaluating and discussing the citizen proposal for limiting development in Nederland.

F. PUBLIC COMMENT ON NON-AGENDA ITEMS (Speakers limited to 3 minutes)

Paul Turnburke, 3259 Ridge Road, and Executive Director of the DDA, spoke to thank those who have worked so hard on the sidewalk maintenance agreement and noted that the agreement has currently cost the DDA approximately \$3,000 to iron out. He expressed his frustration with the Board for not approving the agreement.

Lynda Glasser, 490 N. Bridge St., thanked the Board for their hard work. She also spoke to the promises that were made to the neighbors of the Community Center at the time of the building acquisition in terms of the use of the site. She spoke of her concerns regarding the proposed compost business at the old bio-mass building, and the recent request that she permit the back gate to be open for an event.

Cathleen Chippi, Magnolia Star Route, reported that she filed a case with the Colorado Supreme Court, that the court refused to hear it, and that she will be refileing it in District Court shortly. She explained that she also will be

filing a lawsuit against the Town if she feels that anything in the new medical marijuana regulations is unconstitutional.

G. INFORMATIONAL ITEMS

1. Update on the Board goals progress by Town Administrator Alisha Reis.

H. ACTION ITEMS

1. Consideration of the BZA's recommendations concerning fees for the Rewinkel project.

Reis explained the spreadsheet included in the Board packet and reviewed the alternatives before the Board. The Board discussed the amount of fees at issue, and Mayor Abu-Haidar explained that she felt that returning any fees was a poor community precedent. Most of the Board agreed in whole or in part, except for Trustee Mueller who felt that because the applications had been submitted, accepted, and returned, some monetary compensation was appropriate.

Motion was made by Trustee Mueller to provide Paul Rewinkel with \$254.16 credit toward future fees, seconded Trustee Nowicki, and approved by a vote of 5 to 2, with Mayor Abu-Haidar and Mayor Trustee Wheelock voting against the motion.

2. Consideration of Resolution 2011-01, concerning a Town Employee PTO pay-out request.

Mayor Abu-Haidar thanked Mark Clift for his job performance above and beyond what should be reasonably expected or required and displayed the plaque that the Town presented to Clift for his service.

Motion to approve the Resolution was made by Trustee Nowicki, seconded by Trustee Perret, and approved unanimously by hand vote.

3. Consideration of Ordinance 687 to re-write Section 4-57 of the Nederland Municipal Code, concerning TABOR.

Reis explained the necessity of this housekeeping ordinance to bring the Town into compliance with TABOR requirements.

Motion to approve Ordinance 687 was made by Trustee Perret, seconded by Trustee Joseph, and approved unanimously.

4. Consideration of the Resolution 2011-02, adopting a new fee schedule for room and kitchen rental fees at the Community Center.

Reis explained that the fee schedule for the Community Center, while discussed briefly during the budget process, was not included in the original fee schedule due to an oversight. The Community Center fee schedule needs to be in place at the beginning of the special event season, which kicks off this weekend with Winterfest at the Community Center.

Motion to approve Resolution 2011-02 was made by Trustee Perret, seconded by Trustee Wheelock, and approved unanimously.

5. Appointment of Trustee Wheelock as Board liaison to the Community Center Foundation Board, to fill the vacancy left by Mayor Pro Tem Gierlach's move to PROSAB.

Motion to approve the appointment of Trustee Wheelock as Board liaison to the CCFB was made by Trustee Nowicki, seconded by Trustee Perret, and approved unanimously through a hand vote.

6. Appointment of Trustee Nowicki as Board liaison to the Board of Zoning Adjustment, to fill the vacancy left by Trustee Wheelock's move to the Community Center Foundation Board.

Motion to approve the appointment of Trustee Nowicki as Board liaison to

the BZA, was made by Trustee Mueller, seconded by Trustee Joseph, and approved unanimously through a hand vote.

I. DISCUSSION ITEMS

1. Discussion of a final design cost request by TEC for the Wastewater Treatment Plant project.

Reis explained that TEC is requesting additional design fees of more than \$24,000, and has submitted a letter outlining the basis for the request. Eric Garner, TEC executive, 2310 East Prospect, Fort Collins, spoke to the Board and explained his position with regard to the request. Town Treasurer Eva Forberger provided the history of the agreement. The Mayor asked for some legal clarification and learned that the previous mayor had signed a document amending the original agreement without obtaining Board approval, and thus the entire contract is somewhat legally gray. Much of the Board discussion focused on what Mayor Cheshes had signed and what it had obligated the Town to fulfill. Trustee Mueller sought clarification for the basis of the expenses TEC claimed to have incurred. The Mayor explained that starting over with contract negotiations with TEC is not an option at this point because funding streams are at stake if they are not tapped in the coming months. She also pointed out that the past cannot be fixed, so the process and the contract will not be perfect, but the Town can still clean up the major problems in the existing contract and create an excellent outcome. The Board expressed frustration at the contract that was signed by Mayor Cheshes, and at the lack of clarity, consistency, and transparency in the contract negotiations.

Trustee Perret stated that he would like to move forward to put the construction project out to bid, but also wants to see the documents that were signed by the former mayor. Trustee Mueller, Mayor Pro Tem Gierlach, Trustee Wheelock, Trustee Joseph, and Trustee Nowicki agreed. Trustee

Nowicki further expressed his desire to have a work session to discuss the agreements at issue. Staff was directed to supply the Board with copies of the relevant agreements. A majority of the Board felt that a work session was not necessary. Furthermore, because the additional expenses incurred by TEC were incurred without the Board's approval, and based on the agreement signed by the former mayor without Board approval, the Board was not inclined to agree to payment of the additional expenses at this time.

2. Discussion of the final financing agreement for the Wastewater Treatment Plant.

Forberger explained the change in loan terms and the process that will govern the financing. The Board agreed to have staff proceed with discussions with Wells Fargo to obtain the financing.

3. Discussion of additional purchases for the Water Treatment Plant.

Forberger discussed the need for the purchase of additional parts at the Water Treatment Plant to anticipate future part failures and replacement needs. The Board agreed to direct staff to move forward on the purchases.

4. Discussion of changes to the Nederland Municipal Code concerning the application for and issuance of special event and public assembly permits.

Town Clerk Teresa Myers described the background of special event requirements. Randy Lee, 397 Hwy 119 East, had questions about the fees and how they would be applied. The Board asked questions concerning deposits for damages and how the size of events would be ascertained. Trustee Mueller asked that special event organizers be requested to aim for a zero-waste event, and the Mayor Pro Tem suggested that a deposit be provided for all events and the deposit returned if the event achieved zero-waste status. The Board directed staff to consider Board member concerns and return with a proposed ordinance.

5. Discussion of changes to the Nederland Municipal Code concerning the issuance of Town business licenses.

Myers reminded the Board of the background of the business licensing process and issues. Trustee Joseph asked a few questions and wondered if a tiered license and fee structure would not be more fair and representative of the nature of the businesses in Town. Trustee Mueller pondered whether there might be some way to tie the fees to the amount of traffic or other impact a business places on the Town resources and environment. Carmen Beery, Town Attorney, clarified that licensing fees are generally meant to simply recover the Town's cost of reviewing and issuing the license, not incidental costs to having the business operate.

Janet Perry, 119 East First St., asked that the non-profit fee included in the current draft be waived and that non-profits simply be required to register with the Town.

Randy Lee asked that the certificates be made smaller, that the fees be waived for non-profits, and noted some errors in the Code draft.

Cathleen Chippi, Magnolia Star Route, asked that non-profit fees be waived, and said that she was against a tiered licensing process.

Trustee Mueller asked for clarification regarding the suspension or revocation of license process and was told that the Board would be responsible for all determinations of suspensions or revocations as currently written. He liked the tiered approach and the elimination of fees for non-profits.

Mayor Pro Tem Gierlach recommended that the fee for non-profits be \$1.50 (to recognize that they are a legitimate business and are required to comply),

and that they be required to register with the Town. He also agreed with Trustee Mueller on the appeals question, but did not support the tiered rates.

Trustee Wheelock was not in favor of the tiered approach, wanted to waive the non-profit fees, and supported an appeal process as long it was kept brief.

Trustee Joseph agreed with Mayor Pro Tem Gierlach regarding the non-profit fee, except that the fee should be \$10.00. He was in favor of tiered fees because larger businesses require more from Town staff. He stated that his guiding principles are accountability and equity.

Trustee Nowicki was in favor of waiving fees for non-profits and of including appeals language, but was not in favor of tiered fees.

Mayor Abu-Haidar was in favor of waiving non-profit fees, but requiring them to register, including appeals at an administrative level, but not at a Board level whatsoever, and did not want tiered rate structure.

The Board directed the staff to remove fees for non-profit organizations, but require them to register with Town, keep the straight fee schedule, and clarify that staff revocation and suspension decisions shall be made appealable to the Board.

J. OTHER BUSINESS

Trustee Nowicki expressed his opinion that Turnburke had been disrespectful in the manner in which he addressed the Board, and that he felt strongly that Turnburke's attitude should be addressed.

The Mayor reminded the Board that they had agreed to an interim evaluation meeting with Reis in February.

K. ADJOURNMENT

Motion to extend the meeting beyond 10:00PM was made at 9:59PM by Mayor Pro Tem Gierlach, seconded by Trustee Joseph, and agreed upon by all but Trustee Perret.

Motion to adjourn was made by Trustee Perret, seconded by Trustee Nowicki, and approved unanimously. The meeting was adjourned at 10:07 PM.

Approved by the Board of Trustees.

Sumaya Abu-Haidar, Mayor

ATTEST:

Teresa Myers, Town Clerk

