

**TOWN OF NEDERLAND
BOARD OF TRUSTEES
REGULAR MEETING MINUTES:
September 20, 2011, 7:00PM**

**NEDERLAND COMMUNITY CENTER
750 Hwy 72 Nederland, CO 80466**

A. CALL TO ORDER

Meeting convened at 7:03 PM.

B. ROLL CALL

Present: Mayor Pro Tem Joe Gierlach, Trustees Chris Perret, Marci Wheelock, Randy Lee, and Kevin Mueller.

Trustee Rob Joseph was absent.

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

C. CONSENT AGENDA

- Approval of September 20, 2011 Accounts Payable.
- Approval of September 6, 2011 Regular Meeting Minutes
- Approval of tenant lease at the Community Center kitchen for The Ginger Company
- Approval of renewal of Timberline maintenance agreement for the Community Center.

Motion to approve the Consent Agenda was made by Trustee Wheelock, seconded by Trustee Lee, and approved unanimously.

D. STAFF REPORTS

1. Alisha Reis, Town Administrator

Reis announced the installation of the toddler playground equipment at Chipeta Park on Friday, September 30, 2011 and a “grand opening” celebration on Sunday October 2, 2011 from 3:00 to 5:00PM.

2. Teresa Myers, Town Clerk
3. Eva Forberger, Town Treasurer
4. Jake Adler, Interim Town Marshal
5. Jason Morrison, Public Works Manager
6. Dawn Baumhover, Community Center Coordinator

E. BOARD OF TRUSTEE REPORTS

1. Joe Gierlach, Mayor Pro Tem

The Mayor Pro Tem did not have a formal report.

2. Kevin Mueller, Trustee

The Planning Commission most recently discussed the vacation of right-of-way that was before the Board that evening. It is also working on the RFQ for a consultant for assistance with the Comprehensive Plan.

3. Randy Lee, Trustee

PROSAB will be meeting on Thursday. They had a roundtable meeting with Ned PD, Ned FD, City of Boulder Utilities and the Boulder Emergency Squad to discuss boating on Barker Reservoir safety. The meeting was very productive, and the next step will be approaching Boulder County officials to obtain their cooperation and participation.

4. Marci Wheelock, Trustee

The last CCFB meeting was September 7th. The CCFB did some work on the “Friends of the Community Center” outreach and marketing campaign. This Thursday, Sept. 22, will be opening night for the latest Art at the Center program. A wine and cheese reception will be from 5:00-7:00PM.

5. Chris Perret, Trustee

The Sustainability Advisory Board continues its work on the sustainability scorecard.

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

Jeanette Smith, of Nederland, a volunteer at the Mining Museum and the Visitor Center and a long-time visitor and resident, spoke to the effect that the planned sidewalk will have on the trees currently along Highway 119 past St. Rita's to the post office. She also noted the difficulty of maintaining and using a sidewalk in that area.

Carla Slaughter, of Nederland, spoke of the noxious weeds along the Mud Lake Trail and also of the importance of walking along the roads *against* traffic rather than with your back to it.

Atashnaa Werner, of greater Nederland, asked the Board to consider having the Town conduct a cost feasibility study of paving East Third Street and install a sidewalk along there in lieu of the planned sidewalk to the post office.

Gail Eddy, of Nederland, had concerns about the posting of the DDA agenda prior to the meeting and the calling of an executive session that was not on the agenda, which she wonders if it in violation of the sunshine laws. Finally, she asked whether local businesses are allowed to advertise on the Town's Facebook page. Town Clerk Teresa Myers explained that the DDA agenda posting did not occur due to some technical difficulties that arose while Myers was on vacation. The Facebook concern was one involving a local contractor asking if the Town needed an electrician; Myers responded to him privately that it did not.

Bob Svenson, of Nederland, had questions about a low-income housing project planned for Nederland and asked the Board to look into the delay in building the housing.

Leonard Kottonstette, of Nederland, thanked Town staff and the Trustees and voiced his appreciation for the Trustees' volunteerism.

Peter Fiori, of Nederland, thanked the Board and staff and encouraged everyone to work together and be unified.

G. INFORMATIONAL ITEMS

1. BOT Goals Update

Reis reminded those in attendance that the goal updates are posted on the website and can be obtained from Town Hall at 303.258.3266.

2. Update on intergovernmental agreement with Colorado Department of Transportation re: funding for second phase of sidewalks.

Reis explained that Board review of this program will likely be sometime in October and will be noticed in all the usual physical and electronic posting sites. She further clarified that costs, materials, and design would follow only if the Board had agreed to accept the grant funding and that those issues would involve public input.

H. ACTION ITEMS

1. Consideration of the appointment of Mayor Pro Tem Joe Gierlach as Mayor.

Reis introduced the item and explained the process and legal ramifications of the appointment. Mayor Pro Tem Gierlach read the following statement:

I have found that most people don't pay attention to the Mayor Pro Tem unless something happens to the Mayor.

I am deeply saddened by Sumaya's resignation. I was also saddened when trustee Keith Nowicki resigned three months ago in June and trustee Dallas Masters resigned a year and a half ago in November 2009 due to a "dysfunctional" town staff. Before that, it was trustee Scott Franklin. I came to know these people through town government and they have all been fundamental in the shaping of the government we have today. These people are our neighbors. They have spent countless hours planning what we will do if we get six feet of snow or the forest fire of 2012.

Tonight, I would like to map out what you can expect from this administration for the remainder of this term.

It is difficult for me to calculate the amount of time Dallas and Keith have spent studying our water rates much less, coming up with the formulas that these two scientists toss around. I have successfully pleaded with them to be on a Mayor's task force to study water and sewer rates. They will be joined by Del Lynd and our treasurer, Eva, to come up with an easy to understand

water rate structure that encourages conservation and is fair for all of our citizens. I will be asking our Board to proceed with this important task force later in Other Business tonight.

If you haven't visited Town Hall since April, you will find that it is now quite inviting, thanks to the help of Dennis Duckett and former trustee Roger Cornell. Geneva and the Town Hall staff will welcome you and answer any question that you have. Or you can stop in and say Hi, or better yet say thank you.

We do have a new inquiry tracking system in place that tracks all complaints, issues and questions. The beauty of this system is that it doesn't matter how or who you ask your question. Hypothetically, you can ask Dawn at the Community Center's Fitness Place about your water bill. You could ask a police officer or a public works worker on a road crew about the Adopt-A-Park program or medical marijuana. You can e-mail, call Town Hall, or go to the newly revamped website. Even comments on the town's Facebook page are tracked within about 20 minutes. All of these questions or issues get filtered to the correct person within Town Hall and you will get a response back in one day. You can also be placed on the town's e-mail list or follow us on Twitter to get updates. We even have a copy of every Mountain Ear in the office. Our Town Administrator, Alisha Reis, and Town Clerk, Teresa Myers, have developed this system for our benefit. In addition, it saves the Town insurance premiums.

There is absolutely no need to be uncivil or make threats. My expectation is that you treat all of our town employees with respect. Many of our employees could obtain higher paying jobs, but they choose to work for our town. We are your neighbors. You see us at the post office. You ran with us in the Neder-Nederland and Joe Colton race. We were there with you at Ned Fest, Frozen Dead Guy Days, and the Fourth of July. We watch movies with you at the Backdoor Theater. The people at Town Hall are there to answer your questions, address issues, keep our families safe, and provide basic services to you. It would be foolish to harass your friends and neighbors who have chosen to help you. It is the role of each and every one of us to help our town employees succeed, because they are helping us. The Honorable Trustee Perrett told me last week that he has some leads, and if you have any information about threats to Town Hall, please contact him, or better yet, contact Town Hall.

Sumaya and the Honorable Trustee Marci Wheelock have been instrumental in keeping us on track and hiring our Town Clerk and transitioning to the new Town Administrator so that we all can benefit.

There are two types of projects – public and private. For private projects, we guarantee that citizens have a constitutional right to develop their own land as they see fit, as long as it meets federal building and local codes. There are very specific dates that we take public comment on private projects. If you care about these projects, it is your responsibility to be informed of those

dates. As I've said before, it has never been easier to get this information from Town Hall, as long as you treat our employees with respect. For public projects and events, these belong to all of us. All of us should be giving input and feedback.

I will now show you an illustration of a "mind map". This shows all the different interests that revolve around the town. The basic point of this illustration is that no particular interest has a clear majority. Overall, one thing this tells me, is that I will not get everything that I want. It also tells me that I will have to compromise in order to get any of my ideas incorporated into town plans. This picture also shows me that I have a great deal of friends and neighbors that all volunteer their time and effort to make Nederland a great place to live. There are hundreds of volunteers represented on this map.

For example, suppose you oppose Miner's Days. You come up and get your three minutes. You say, "I think we should cancel Miner's Days because it celebrates a terrible time in our history where we raped the earth and polluted our land and water." If you are unwilling to compromise, then the board will vote, your position will most likely lose simply because of the statistics behind the mind map that I showed a moment ago. Then you will be right back again next year opposing Miner's Days. I have seen the same people oppose the same thing to this board for three years in a row.

If, on the other hand, you are willing to compromise, then you will need to attend our advisory boards' meetings. They are all open to the public. You will state your position and perhaps we can work out a compromise. Perhaps we include a section at Miner's Days that shows the clean-up efforts that are being taken to repair the environment. Perhaps we raise money for further clean-up efforts. We do need to bring up issues and find creative solutions to them instead of polarity.

The best example of compromise is our Wastewater Treatment Plant. I have watched the Honorable Trustee Kevin Mueller tirelessly review and negotiate for over three years on this plant to incorporate "green" elements into the project. The end result so far is that our financing will be reduced to \$4.7 million from the original \$11 million, via a financing option pursued and negotiated by Eva and Alisha. The annual electricity cost has been reduced from \$150,000 per year to less than \$20,000 per year. Kevin's impact will be felt by this town for more than the 20-year life of the plant. In total, he has been instrumental in saving us \$8.9 million and reducing our carbon footprint substantially. He is our neighbor and a volunteer.

All of our advisory boards are neighbors and volunteers. You see us at the B&F. Our children play hockey together. The DDA is one of these boards. The idea that they are corporate moguls who don't live in Nederland, taking advantage of our economy is fairly ridiculous. You see them at the Business Connection or Ace Hardware. They shop here, they work hard to make a living, and they are also concerned about snow storms and forest fires. I've seen them helping people in both snow storms and forest fires. They are our

neighbors and volunteers. Treat them with respect and they will compromise with you on your idea.

I have served on this board with the Honorable Trustee Rob Joseph for a year and a half. I have heard him thank volunteers from our various boards at every single board meeting, without exception. It is unusual that he is unavoidably out of town today. I have also yet to hear someone thank him. Of course, our newest Trustee, the Honorable Randy Lee, has been to more board meetings and work sessions than anyone on the board. He is an incredible fund-raiser and our neighbor and a volunteer.

So, here is what you can expect for the next six months. It is all public. It will be on Facebook, email notifications, the Mountain Ear, Twitter, and posted at the post office, Town Hall, the beautiful new library, and the B&F.

Tonight, we will appoint a new Town Marshal.

At our next meeting, we will have the Sustainability Resolution on our agenda. We will also have the Economic Development Task Force recommendations on our agenda as a discussion item. We will appoint a new trustee.

After that, we will have a Board retreat with our new trustee. In this retreat, we will discuss how we would like to incorporate the newly accepted Envision 2020 document. This will be our guiding document. If you participated in Envision 2020, then your input is included in our plan. We will examine how it fits in with our goals and how it fits with the Action Plans of our advisory boards.

I have received many e-mails this week, and some have quoted the Envision 2020 document. This is what I hope we will continue to do. As we meet with our advisory boards, we will use the Envision 2020 document to guide the process.

We will map out all the remaining board meetings and work sessions of this Term. It will look a whole lot like this:

Thursday at 5:00 pm I will be at the "Art at the Center" event at the Community Center.

September:

Next week we will have dinner with the Boulder County Commissioners, US Forest Service project update

October:

Appoint new Trustee, Envision 2020 Board retreat, 2012 Budget hearing, Approve WWTP Contract, Sustainability Advisory Board Action Plan

November:

Planning Commission Action Plan, (possibly meeting w/BZA), Community Thanksgiving Dinner, Town Administrator evaluation

December:

Adopt 2012 Budget; Adopt 2012 Water/Sewer Rates, dinner with Chamber of Commerce, Winter Break

January:

PROSAB Action Plan, dinner with Boulder Valley School District

February:

DDA Action Plan, dinner with Gilpin County Commissioners

March:

Community Center Foundation Board Action Plan, General Election for 3 Trustees and Mayor [April 3]

If you are interested in any of this, I would advise you to become familiar with the advisory board that pertains to your topic and plan your compromise with them before they meet with the Board of Trustees. We are your neighbors, we are all volunteers.

Motion was made by Trustee Wheelock to appoint Mayor Pro Tem Joe Gierlach as Mayor, seconded by Trustee Lee, and approved unanimously. The new Mayor was then sworn in by Myers.

2. Consideration of the appointment of Mayor Pro Tem and announcement of the Trustee vacancy.

Reis introduced the item and explained the process for the selection of the Mayor Pro Tem and a new trustee. The Mayor appointed Trustee Kevin Mueller as Mayor Pro Tem. Trustee Perret noted that he felt that, given his own experience as mayor, he could have assisted Mayor Gierlach over the next six months, but he understands that the Mayor has chosen to go in a different direction.

Trustee applications are due to the Clerk by 8:00AM Wednesday, September 28th.

3. Consideration of the appointment of Police Chief.

Reis introduced the item, explained the background of the search, and how the process was conducted. Finalists were narrowed down to Sergeant Jake Adler and Officer Tom Manzione, with the first place position designated to Adler.

Bob Svenson, of Nederland, spoke in support of Adler.

Trustee Lee elected to abstain from the vote due to the fact that the Police Department is a business client of his and so he works with both Adler and

Manziona. He also spoke to his concerns that the packet did not contain any details explaining the hiring committee's deliberations or conclusions. Reis answered Lee's concerns about the process by detailing the hiring process.

Motion was made by Trustee Perret to approve Resolution 2011-20, appointing Jake Adler as Police Chief, seconded by Mayor Pro Tem Mueller, and approved unanimously, with Trustee Lee abstaining.

Sergeant Adler was sworn in as Police Chief by Myers.

4. Consideration of request of discount/waiver for the Nederland Area Seniors' Holiday Mountain Market.

Reis provided background on the item and explained the staff recommendation.

Jim Elder, President of the Nederland Area Seniors, spoke in support of a full fee waiver.

The Board expressed verbal support for the fee discount as recommended by staff.

Motion was made by Mayor Pro Tem Mueller to approve the discounted fees as recommended by the staff, seconded by Trustee Perret, and approved unanimously.

5. Consideration of request of discount/waiver for Wild Bear's Enchanted Forest.

Reis provided background on the item and provided a verbal staff recommendation. No fiscal impact information was available. Corporal Larry Johns provided feedback indicating that the event has minimal impact on the Town in terms of congestion.

Carla Slaughter spoke in support of the event and the family nature of the event.

Dennis Duckett spoke in favor of the event, noting that it was community-building.

Trustee Lee and Mayor Gierlach expressed support for a 50% discount in the fee. Trustee Wheelock noted that the event was indeed wonderful, but that Wild Bear

receives \$900 in economic development funds and that consistency in fees is important, and so Wild Bear should pay for the staff time, as the Seniors were just asked to do. Trustee Perret shared this opinion. Mayor Pro Tem Mueller noted that while the Seniors make \$12,000 from their event, Wild Bear does not make much money on the event at all, and so would waive the fee.

Bob Svenson spoke in favor of the waiving the fee entirely.

Motion was made by Mayor Pro Tem Mueller to waive the special event fees for Wild Bear, seconded by Mayor Gierlach, and defeated by a vote of 2 to 3, with Trustees Lee, Perret, and Wheelock voting no.

Motion was made by Trustee Lee to approve a 50% fee reduction for the Wild Bear Enchanted Forest event, seconded by Mayor Gierlach, and approved unanimously.

6. Consideration of an ordinance adopting the loan agreement for the wastewater treatment plant.

This item was introduced by Town Treasurer Eva Forberger, who explained the ordinance, why it is being offered as an emergency ordinance, and the last minute verbiage change included by Bond Counsel and Town Attorney Carmen Beery.

Motion was made by Trustee Lee to approve Ordinance 696, seconded by Trustee Perret, and approved unanimously.

I. DISCUSSION ITEMS

1. Discussion of Board of Zoning Adjustment (BZA) recommendation to amend Town code to allow BOT liaison voting powers at the BZA.

Reis introduced the item and explained that the BZA recommendation was based on concerns that the BZA might not always have a quorum necessary for conducting business at some meetings without it. The packet materials include a memo from Town Attorney Carmen Beery

Carla Slaughter asked who the Board liaison to the BZA would be, and Mayor Gierlach explained that it was always a Trustee.

Trustee Perret supported the idea but would limit the Trustee's vote to a tie-breaking decision. Mayor Pro Tem Mueller and Trustees Lee and Wheelock supported allowing the liaison to vote as a full member. Reis explained that this board was not a standard advisory board but a quasi-judicial board from which the appeal is to the courts, not the Board of Trustees. In this way, it is different from the other advisory boards, including the Planning Commission.

The Trustees directed Town staff to bring an ordinance forward allowing the liaison to have full voting privileges.

2. Discussion of Vacation of Right-of-Way application at Lower West Fourth Street, recommendation of change to Vacation of Right-of-Way policy.

Reis explained the item, provided the background of the applications and their history before the Planning Commission, and discussed the options before the Board.

Wendy Williams spoke in support of her application and asked that the Board overturn the Planning Commission's decision.

Mike Pelkey also spoke in support of his application and asked that the Board overturn the Planning Commission's decision.

Peter Fiori spoke in support of the application and noted the improvements already made and further planned to the property.

Nancy Stubbs, of Nederland, a neighbor of Williams and the Pelkeys, spoke in support of the application, noting the good care the applicants take of the property.

Dennis Duckett asked questions about whether the property would legally become the property of the applicants and was informed that the vacated land would indeed become so, but that the Town could reclaim it under certain, limited circumstances.

Trustee Lee argued that the Board should follow previously established public policy and expressed support for the Planning Commission's decision. He also voiced

support for change in public policy allowing the Town to profit from the vacation of public lands, with those profits set aside for the acquisition of additional public lands.

Mayor Pro Tem Mueller thanked the applicants for taking care of the property but explained that he could not support the vacation applications because once it is transferred to private hands, the Town loses much of the control over the ~~stewardship of the land and the opportunity to use it as public land in the future.~~

Trustee Wheelock explained that she feels the bigger question is whether the guiding resolution should be amended or repealed. She noted that she doesn't feel the Town should be giving away any of its property at this point and especially property that has a creek running through it.

Mayor Gierlach asked for clarification of what is different between a vacation and simple deed. Reis explained that the vacation could technically be reversed in the future, but likely not without a fight. The Trustees talked about the value of public lands.

Trustee Perret explained the background of the guiding resolution, which included the facts that the Rambo property was vacated with the intention of putting the library on the site and the fact that the prohibition on selling public lands through a vacation of right of way was intended to discourage future Town officials from selling land through vacations in order to collect money or pay off existing debt at the expense of public lands for future generations.

Stubbs spoke to explain the physical nature of the parcels.

Duckett spoke about the difference between parks and wild lands.

Fiori asked whether water rights would be involved in the consideration and Reis explained that they were not. He also argued that these parcels are exceptional in their site and their lack of value to general residents and are therefore worthy of an exception to the basic policy.

Trustee Wheelock acknowledged that the land is not buildable but that it would greatly enlarge the Pelkeys lot, thereby granting them some value upon the vacation.

Leonard Kottenstette noted that the layout of Fourth Street is idiosyncratic and the parcels are deserving of an exception to the public policy.

Jerry Soutiere, of Nederland, argued loudly for the vacation.

Carla Slaughter spoke in favor of the vacation.

Pam North, of Gilpin County, suggested the Town sell the land to the applicants.

The Board directed staff to obtain some answers to legal questions from the Town Attorney and then to review the applications once again as an action item. The Board also agreed to review the resolution and the larger public policy it represents.

3. Discussion of Mayor's Task Force on Utility Rates.

Mayor Gierlach announced that the Task Force would be comprised of residents Del Lynd, Keith Nowicki, and Dallas Masters, as well as Town Treasurer Eva Forberger. Masters will chair the Task Force.

Carla Slaughter spoke in favor of the Task Force and voiced her hopes that the utility financing savings would be passed onto the residents. She also argued that residents should be allowed to pay quarterly or monthly.

J. OTHER BUSINESS

Trustee Perret thanked Teens, Inc. and the public for participation in WindFest. He encouraged the Board of Trustees to participate next year.

K. ADJOURNMENT

Motion to adjourn was made by Trustee Perret, seconded by Mayor Pro Tem Mueller, and approved unanimously. The meeting was adjourned at 9:53 PM.

Approved by the Board of Trustees.


Joe Gierlach, Mayor

ATTEST:


Teresa Myers, Town Clerk

