

**TOWN OF NEDERLAND
BOARD OF TRUSTEES
REGULAR MEETING MINUTES:
February 21, 2012, 7:00PM**

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

A. CALL TO ORDER

Meeting convened at 7:09 PM.

B. ROLL CALL

Present: Mayor Joe Gierlach, Trustees Chris Perret, Randy Lee, Annette Croughwell, Janette Taylor, and Peter Fiori.

Absent: Mayor Pro Tem Kevin Mueller.

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

C. CONSENT AGENDA

- Approval of February 21, 2012 Accounts Payable "A," all accounts except for Checks #26062 and #26078.
- Approval of February 21, 2012 Accounts Payable "B," Check #26062.
- Approval of February 21, 2012 Accounts Payable "C," Check #26078.
- Approval of February 7, 2012 Regular Meeting Minutes

Motion to approve the Accounts Payable "A" and February 7, 2012 meeting minutes was made by Trustee Fiori, seconded by Trustee Croughwell, and approved unanimously.

Motion to approve the Accounts Payable “B” was made by Trustee Perret, seconded by Trustee Croughwell, and approved unanimously, with Trustee Lee abstaining due to a conflict.

Motion to approve the Accounts Payable “C” was made by Trustee Perret, seconded by Trustee Lee, and approved unanimously, with Trustee Fiori abstaining due to a conflict.

D. STAFF REPORTS

1. Alisha Reis, Town Administrator

Reis reminded those present of the Eco-Pass sign-ups at Town Hall every Friday from 2:00 to 5:00PM, and notified everyone that town staff will be contacting residents as soon as Eco-Passes are available for pick-up at Town Hall. Also the Parks and Recreation Master Plan Community Meeting will be held on Thursday, February 23rd.

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

Johnson provided a year-end summary of 2010-2011 building permits.

E. Board of Trustee Reports

1. Mayor Joe Gierlach

The Mayor reminded everyone that his report will be published in an upcoming *Mountain-Ear*.

2. Mayor Pro Tem Kevin Mueller

The Mayor Pro Tem was absent but filed his report to the Board electronically. The Planning Commission met on January 26, 2012 for a short meeting to discuss Bed & Breakfast home occupations in Low Density Residential Zoning. The Planning Commission is in favor of allowing this type of home occupation and asked staff to look into what other communities have done, issues, and benefits.

The Comprehensive Plan update RFQ submissions have been received, and the guiding policies for selection of a firm will be discussed at the joint BOT/Planning

Commission meeting scheduled for February 22nd at 6:00PM. The Mayor Pro Tem regrets that he will be unable to attend that meeting.

3. Trustee Chris Perret

The BZA approved a new code change and the larger sign for the Community Center at the entrance.

4. Trustee Randy Lee

PROSAB met and heard a presentation from Boulder County forestry health official Ryan Ludlow concerning creating defensible spaces and is working on a pilot plan to develop a neighborhood-based community wildfire mitigation program, like the successful Saws and Slaws program in Coal Creek Canyon.

5. Trustee Annette Croughwell

The DDA met the previous Tuesday and discussed the items on this evening's agenda.

6. Trustee Peter Fiori

The Board held a joint work session with the CCFB and discussed setting aside some dollars in the 2013 Budget for a full-site review of the Community Center to determine the best future vision for the Community Center.

7. Trustee Janette Keene Taylor

The Sustainability Advisory Board met but did not have a quorum and so just had a general discussion.

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

Gail Eddy, of Nederland, read the following comments into the record:

I would like to strongly encourage the Board of Trustees to look at the Quorum issue with the DDA.

The people who are interested in this issue and are asking questions receive different answers from different people, and sometimes the same people!

State law says that a DDA must have between five and eleven people

When the BOT initially appointed people to the DDA Board, they stated that the Board would have seven voting members and two non-voting alternates.

With so many people resigned from the DDA Board, many constituents are concerned about how they are being represented and whether or not the recent meetings had a quorum.

Nowhere does it state how many people constitute a quorum for the DDA.

I strongly request that this issue be resolved as soon as possible.

Thank you very much.

Town Attorney Carmen Beery explained that a quorum is the majority of the seated members of a board, per Colorado law and the DDA bylaws. Eddy followed up with a question of what will happen at the DDA meeting on April 10th, after 3 of the 4 current DDA board members have resigned and before the Board of Trustees has an opportunity to appoint new DDA members. Beery advised Trustee Croughwell, who will be the only remaining member of the DDA, to not take any formal action at that meeting.

G. INFORMATIONAL ITEMS

1. 2012 BOT Goals Update

Reis highlighted some aspects of the goals update and reminded everyone that the update is available on the website.

2. Introduction of Interim Ranger Trey Schillie, U. S. Forest Service.

Ranger Schillie talked about some widening to be done to Fourth of July Road to allow for parking along the sides and for emergency vehicle access. He also detailed some options for addressing crowds at the Fourth of July trailhead. Ranger Schillie discussed the relocation of the Jenny Creek Trail, a fuels reduction project near the Nederland Water Plant (comments are currently being accepted by the USFS on this project), and a West Magnolia fuels reduction project. Ranger Schillie explained that most of the slash disposal will be done through chipping, due to no-burn days ordered by the State. Finally, he addressed the West Magnolia shooting range issue, and explained that the USFS will be looking comprehensively – throughout the mountain community and beyond – at locations to potentially relocate the informal recreational shooting range located at the former Nederland dump site. There was some discussion concerning safety concerns and noise pollution concerns. Ranger Schillie pointed out that the USFS did a safety study in September and found that safety was not identified as an issue, e.g. near-misses, etc. Without documented safety concerns, in the form of police reports, the issue becomes merely a noise issue, which the USFS is not accustomed to nor equipped for dealing with. Ranger Schillie stressed that the evaluation of this problem is in its infancy and one of the biggest struggles for the USFS is identifying if the shooting is occurring on private land, county land, or USFS land. The ranger also acknowledged that there exists some interest in Gilpin County to potentially site a

shooting range there. Trustees Lee and Taylor urged Ranger Schillie to set goals with timelines and make this issue a priority to be addressed. Trustee Perret asked the ranger to notify the Town well in advance of open comment periods so that it could convey that information to interested residents. Trustee Fiori argued that there are obvious safety concerns at the Magnolia informal shooting range, given the number of high-powered shell casings littering the forest floor.

The Mayor called for a short recess. The meeting reconvened at 8:44PM.

H. ACTION ITEMS

1. Consideration of Resolution 2012-09, cancelling the Board of Trustee meetings scheduled for March 6, 2012 and April 3, 2012.

The Mayor introduced the item and explained his reasons for requesting cancellation of the meetings. Trustees Lee and Fiori argued that if the March 6th meeting was cancelled, it would result in an overloaded agenda for March 20th. Alternatively, they felt that the Board should have a meeting later in that week if not on the 6th. The Mayor explained that the “lame duck” nature of the Board would suggest that not much work of substance could – or should – be done right before the election of a new Board. Beery reminded the Board that the Mayor can unilaterally cancel meetings, without permission from the Board.

Motion was made by Mayor Gierlach to approve Resolution 2012-09, cancelling the Board of Trustee meetings scheduled for March 6, 2012 and April 3, 2012, seconded by Trustee Taylor, and approved by a vote of 4 to 2, with Trustees Lee and Perret voting no.

2. Consideration of the Backdoor Theatre Company 2012 lease renewal.

Reis introduced the item and explained the background of previous years' leases for the Backdoor Theatre Company at the Community Center and the new items negotiated with the BDT contained within the proposed 2012 lease. Kayla Evans, president of the Backdoor Theatre Company, was on hand to answer questions and provide some historical background of how the theater came about, how it has functioned, and how rental increases have been handled.

Eddy read the following written comments into the record:

I have several comments about this agenda item. First, I was surprised to not see any letters from the public included in the package. While I understand that the letters are written to the Board, they also give the public an idea of where public sentiment is running, and what new ideas have been provided. I respectfully request that complete information be provided to the public in the future. Since you are not worried any more about printing costs, there is no reason not to include complete information.

I am also surprised that the Fund Balance that was included does not break out expenses and income specifically for the Theatre space. I'm not sure how you, the Board of Trustees can make an intelligent decision without all of the information you need.

I am also very confused by the Financial Analysis included in the packet. I have a Master's Degree in Finance. If I can't figure this out, how are you supposed to?

- *What I believe I am reading in this Analysis is that the square footage of the Back Door Theatre space is 3631 sq' and the cost other tenants are paying is \$8.33/sq' for full time use of space within the Community Center.*
- *As I understand this new lease, the Town is reducing the time the BDT is allowed use of the space from full time or 168 hours per week to 10 hours per week. This is a reduction of 94%. In that case, rent should also be reduced by 94% to \$0.50/sq' or \$151.29 per month*
- *It appears from the Analysis that the BDT will also continue renting certain spaces full time. This amounts to 796 sq' and monthly rent of \$552.08*

A fair monthly rent for the Back Door Theatre with reduced hours and reduced square footage is no more than \$703.37.

Thank you very much.

Pam North, of Greater Nederland, asked if the digital system would increase the BDT profits because the BDT would get the movies sooner after release. Evans acknowledged that would be the case, and some savings would also be made on shipping costs.

The Mayor asked Town Treasurer Eva Forberger to explain how the rent costs for the BDT were reached. Forberger explained her process. The BDT is made of both office type space that is rented 24/7, and the Theatre which is not used 24/7. The current rent does not break down by type or use so in order to break down the rent for the different spaces by use the Treasurer applied the average rent currently received for similar office space rented on a 24/7 basis to the BDT office spaces and the remainder against the Theatre. This analysis resulted

in an average hourly rate of \$26.44 for the Theatre's use which is 12% below the hourly rate on the 2012 rate schedule.

By unanimous voice vote, the Board tabled consideration of the lease until its March 20th meeting in order for the Trustees to have more questions answered by staff.

3. Consideration of Resolutions 2012-10, 2012-11, and 2012-12, expressing support for the DDA during the April ballot issues.

Trustee Croughwell introduced the item and explained the DDA's wishes in putting forward the draft resolutions.

Motion was made by Trustee Perret to extend the meeting until 10:15PM, seconded by Trustee Taylor, and approved by unanimous voice vote.

Mayor Pro Tem Mueller, who was absent, asked that his submitted, written comments be read into the record, which they were. His written comments became part of the official meeting file.

Trustee Fiori expressed his support for Resolution 2012-10. Trustee Perret asked if he should recuse himself from consideration, as he is a voting member of the DDA, but Beery informed him that he was not subject to a conflict. Trustee Perret supported Resolution 2012-10. Trustee Croughwell supported Resolution 2012-10, stressing that this resolution supports the concept of the DDA, and is not a referendum on the past practices of the DDA. Furthermore, she noted that the local business community needs the Town's support, particularly given the current state of the Chamber. Trustee Lee agreed with Trustee Croughwell, but also expressed his appreciation for the efforts and successes of the past DDA. Trustee Taylor supported the resolution, particularly noting its wording.

Patricia Everson, of Nederland, argued that the Town Attorney's legal analysis of the DDA quorum issue was in error. She noted her support for the first resolution, but not the others.

Eddy read the following written comments into the record:

First of all, thank you for serving our Town and looking fairly at all of the DDA issues which have recently come before you. I appreciate your time in doing your own research and all the time you spend reading.

I have several issues with these three Resolutions.

Regarding Resolution 2012-12, I would ask that you not advocate your support for the DDA until it is properly represented by residents and business owners who are providing their support by being willing to serve on their Board. With the exception of one member, the DDA Board that is asking you to sign this resolution ALL do not believe enough in the DDA to provide their own commitment. To say this another way, I think it's very disingenuous for a group of people to ask for your support when they themselves are not supporting this Board. I ask that you TABLE this Resolution until the DDA Board is fully populated with Board members willing to serve the Town and their constituents.

Secondly, regarding Resolutions 2012-11 and 2012-12, I do not believe that a Town Government which receives taxpayer funds can, in good conscious, tell its constituents how to vote. As a member of the Library Board, which also receives taxpayer funds, we, as a Board, refrained from asking the taxpayers to vote in favor of the Library. I do not see this as any different. It's bad form and will be seen that way in the public eye. Please vote NO for both of these Resolutions.

Thank you very much.

Bob Svenson, of Nederland, agreed with Eddy and argued against all three resolutions.

Dianne Fleming, of Nederland, asked if the Resolutions were even valid, given that the Board had not received the DDA resignations, but Myers explained that Clerk's office had, in fact, received the formal resignations from the DDA members, which is what is required by law and by Code.

Motion was made by Trustee Fiori to extend the meeting until 10:30PM, seconded by Trustee Taylor, and approved by voice vote of 5 to 1, with Trustee Perret voting no.

Trustee Lee and Trustee Taylor supported Resolution 2012-10, but Trustee Lee also supports the other resolutions, while Trustee Taylor does not.

The Mayor expressed his strong feeling that he wants Board unanimity on any resolution the Board approves. He does not want to put forward resolutions that are passed only with a plurality.

Trustee Perret expressed his urgent feelings that he cannot support any of the resolutions. Trustees Croughwell and Taylor emphasized that Resolution 2012-10 merely supports the general concepts of the DDA.

The Mayor moved to table, indefinitely, Resolutions 2012-11 and 2012-12. The motion passed by unanimous voice vote.

Motion was made by Trustee Taylor to approve Resolution 2012-10, expressing support for the DDA generally, seconded by Trustee Lee, and approved unanimously, with Trustee Perret abstaining, after indicating that he was unable to be unbiased in casting his vote on this matter.

Motion was made by Trustee Taylor to extend the meeting until 10:45PM, seconded by Trustee Lee, and approved by a vote of 5 to 1, with Trustee Perret voting no.

4. Consideration of final pay application for Sidewalks Phase I grant project.

Reis introduced the item and explained what the payout covered.

Everson expressed support for the final payment.

Trustee Fiori agreed that the payout should be approved. Trustee Perret felt that the project was not completed yet, and so the payout should not be approved. Trustees Croughwell and Lee commended staff for their work in negotiating the final payout.

Motion was made by Trustee Lee to approve the final pay application for the Sidewalks Phase I grant project, seconded by Trustee Fiori, and approved by a vote of 5 to 1, with Trustee Perret voting no.

I. DISCUSSION ITEMS

1. Discussion of proposal for graffiti wall at Teen Center.

This agenda item was moved forward, by unanimous voice vote, to before the Action Items in order to allow the teen presenters to return home and prepare for school the following day.

The Teens, Inc. "VIEW" group introduced the proposal. They addressed resident concerns that the wall would encourage illegal graffiti painting or tagging; the group would be willing to undertake clean-up and restorative justice efforts in order to encourage painting only on the wall. The teens proposed alternative locations for the wall, discussed the construction of the

wall, and explained that they are conducting a survey among residents. The teens answered questions from the Trustees. The group is seeking approval from the Board to seek funding and move forward with planning.

Trustee Fiori supported the project and felt that the wall should not be used for recreational ball activities, but only as a mural wall. Trustee Lee said that his support for the wall was conditioned on a guarantee from the Teen Center that they would clean off any tags on the skate park, not merely cover them up. He predicted that those clean-ups would be quite extensive and time-consuming. The teens agreed that the peer supervisors at the Teen Center would be responsible for cleaning up any tagging on the skate park. The Teens, Inc. board and staff have agreed that it will take responsibility for tagging on the skate park. The Board directed the teens to finalize their plans, secure funding, and work with staff to iron out the details before coming back to the Board to final approval.

2. Discussion of creating a Mayor's Task Force on Housing.

This item was tabled for future discussion.

3. Discussion of Resolution 2012-XX, supporting the Boulder County Zero Waste Action Plan.

Lisa Friend, from the Boulder County Commissioner's Sustainability Office, was on hand to answer questions about the resolution and the action plan. Trustees Fiori, Perret, Croughwell, and Lee noted that there are some Town staffing concerns in terms of implementing the 28 items contained in the resolution. Trustee Taylor asked for a staff recommendation. Reis suggested that the Board issue a directive to the Sustainability Advisory Board to study implementation of the action plan as a top priority.

Motion was made by Trustee Perret to approved Resolution 2012-11, adopting the Boulder County Zero-Waste Action Plan as a guiding document and directing the Sustainability Advisory Board to work on implementing the goals of the plan, seconded by Trustee Fiori, and approved unanimously.

4. Discussion of stipend for the Mayor's position.

This item was tabled indefinitely.

J. OTHER BUSINESS

Trustee Lee suggested that the Board direct all advisory boards without by-laws to create such by-laws and present them to the Board of Trustees for approval. The Board agreed with such direction and asked Town staff to assist in the process.

K. ADJOURNMENT

Motion to adjourn was made by Trustee Fiori, seconded by Trustee Lee, and approved by unanimous voice vote. The meeting was adjourned at 10:50PM.

Approved by the Board of Trustees.



Joe Gierlach, Mayor

ATTEST:



Teresa Myers, Town Clerk

