

**TOWN OF NEDERLAND  
BOARD OF TRUSTEES  
REGULAR MEETING MINUTES:  
October 2, 2012, 7:00PM**

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

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**A. CALL TO ORDER**

Meeting convened at 7:04 PM.

**B. ROLL CALL**

Present: Mayor Joe Gierlach, Mayor Pro Tem Kevin Mueller, Trustees Chris Perret, Randy Lee, Annette Croughwell, Ledge Long, and Peter Fiori.

Also present: Alisha Reis, Town Administrator, Teresa Myers, Town Clerk, Eva Forberger, Town Treasurer, Carmen Beery, Town Attorney, and Jason Morrison, Public Works Manager.

**C. CONSENT AGENDA**

- Approval of October 2, 2012 Accounts Payable
- Approval of September 18, 2012 Regular Meeting Minutes
- Approval of Big Springs Erosion Project

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

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

Donna Kirkpatrick, of Nederland, informed the group of the DDA's plan to hang holiday lights this holiday season, from donated lights and decorations, and encouraged those present to donate old lights and decorations.

**E. INFORMATIONAL ITEMS**

1. NedCompost Update Report

President of the Board of NedCompost, Dianne Fleming, introduced NedCompost members who were present, and Jesse Seavers provided the Board with an update to NedCompost's projects and activities.

**F. ACTION ITEMS**

1. Consideration of Proposal for 2013 Boulder County Economic Development Grant (NedWEB program).

Myers introduced the item. Trustee Perret had some reservations about the program and felt that a better program would be to devote the money to a Buy Local Campaign and allow the local businesses more control over the program. Trustee Fiori was in support of the program and would like to explore a local currency in the future. Trustee Lee also supported the idea and hoped that it would evolve and broaden to the Greater Nederland community as time moves forward. The Mayor and Trustee Croughwell were also in favor of the program, but wanted an opt-out option for local businesses that did not want to participate. Trustee Long was supportive of the program but would like to poll the previous grant recipients at the end of the year to see how much hardship they felt by not receiving the funds as they had previously. The Mayor Pro Tem supported the program and thanked the staff for developing it.

Motion to approve the Proposal for 2013 Boulder County Economic Development Grant (NedWEB program) was made by Trustee Lee, seconded by Trustee Fiori, and approved unanimously.

2. Consideration of Aspen Grove Community Preschool SRU.

Reis introduced the item and reviewed the Board history from the last meeting, including the reconsideration motion. The applicants were on hand for questions.

Ed Ranegar, of Nederland, did not oppose the preschool, despite being a neighbor of the property under consideration, but his support was conditional on the preschool obtaining safe and adequate traffic access and parking.

Pat Everson, of Nederland, spoke in support of the preschool, both its mission and the location.

Teri (inaudible), of Black Hawk, spoke in support of the preschool and assured the Board that the parents and teachers would do all they could to guarantee the safety of the children and the neighbors.

Kayla Evans, of Greater Nederland, had some questions about parking on Mr. Meyertons' property, but otherwise was supportive of the application.

Kirkpatrick spoke in support of the location for a preschool and reminded the group that the DDA was working to address the Town's parking problems.

Tenaya Pieper, of Nederland, was opposed to the preschool location, even with the new adjustments, due to safety concerns.

Phil Sutton, of Nederland, opined that the parking was inadequate and the road cannot handle the potential traffic.

Dana Brennick, of Nederland, spoke in support of the preschool and the quality of education it provides.

Beery informed the Board that the Town could enforce laws on the private road as well as enforcing the use agreements between the private parties, and Morrison talked about how the road is maintained and used. Beery also discussed the various ways the Town could convert a private road to a public road.

Trustee Fiori asked whether the Town had posted the existing signs on the road, e.g. speed limit signs, etc. Morrison replied that the Town had placed them.

The applicants replied to some of the public comments and questions. Jasper Webb explained the parking agreement with Ralph Meyertons, the traffic flow patterns, the enrollment limits on the preschool, and why the purchase of Little Bear School is not an alternative. The Mayor asked some questions about turnaround space for pickup and

drop-off, and Webb responded to them. Trustee Lee asked if the Meyertons would allow more parking spots on their land, and Webb replied yes. Trustee Croughwell asked Webb to explain what would happen if Meyertons sold his property. Trustee Perret asked how the property would handle emergency vehicles and snow storage.

The Mayor expressed his support for approval of the SRU, based on fulfillment of the Planning Commission's recommendations, and his belief that parking was sufficient for the contemplated use. Mayor Pro Tem Mueller asked some questions of staff concerning snow removal, the nature of the easement and the Town's obligation to enforce it. Beery explained that the Town could enforce the easement but would not be obligated to enforce it. Trustee Long supported the application, citing compliance with the Planning Commission recommendations. Trustee Croughwell noted that only one neighbor had voiced public support for the application and that traffic flow issues had not been ironed out, and so she could not support it. Trustee Lee also noted the neighbors' opposition to the application, despite the fact that the Meyertons agreement was positive and the location is ideal in some ways. He said that he could support the application only with some conditions – that the revocation of the Meyertons overflow parking or evidence that parking along the street by parents or teachers is habitual would result in immediate reconsideration of the SRU. Trustee Fiori opined that any Board decision that goes against a Planning Commission recommendation should be considered carefully and noted several issues that had been raised but were not appropriate for the Board's consideration as part of this matter. He also disagreed with Trustee Perret's concerns about emergency vehicle access. Trustee Perret took issue with the fact that the application had few public supporters and plenty of opponents.

The Mayor took a straw poll to direct the staff to continue negotiations with the Meyertons to convert the private road into a public road, and the Board agreed unanimously.

The Board discussed Trustee Lee's proposed conditions.

Motion to approve the Aspen Grove Community Preschool SRU with the conditions outlined by the Planning Commission was made by Trustee Fiori, seconded by Mayor Pro Tem Mueller and approved by a vote of 4-3, with Trustees Croughwell, Perret and



Lee voting no.

The Mayor called a short recess and the meeting reconvened at 9:12 PM.

3. Consideration of Resolution 2012-28, concerning an encroachment permit for 8 W. Boulder St.

Reis introduced the event and provided the Board with history of the encroaching wall. Ron Mitchell was on hand to explain the need for the wall.

Everson objected to the Boulder St. side of the wall, but not the Highway 119 side of the wall.

Fleming spoke to the danger of crossing the crosswalk and entering the highway at the corner of Boulder St. and Hwy. 119.

Scott Smith, of Nederland, shared his belief that the wall has improved the safety of the road there appreciably.

Kirkpatrick talked to the group about the precedent that will be set if the encroachment permit is granted for this situation but not allowed for those on Second St.

Glenna Carline, of Nederland, spoke in opposition to granting encroachment permits, despite the fact that she really likes the flowers there.

Rodney White, of Nederland, complimented the flowers but noted the difficulty in seeing around the wall.

Sean McDonald, of Nederland, liked the wall and encouraged the Board to consider Mitchell's purpose in constructing it.

The Mayor noted that emerging crosswalk design is favoring placement of the crosswalk behind one car length, so that cars do not block the crosswalk when stopped.

Beery advised the Board that it can only evaluate each application on its own merit and not with too much of an eye to various precedent possibilities. She also advised the Board that it could place conditions on the approval and direct staff to continue working with the applicant on various aspects of the approval.

Trustee Lee asked what other options would Mitchell have to control the erosion, and Reis informed him that Mitchell would have to seek engineering advice. Morrison responded to a question about the Town's ability to plow with the wall there, and Mitchell explained that if the wall is damaged by Public Works, he will simply repair it.

Trustee Perret admonished Mitchell for installing the wall over Town and CDOT property rather than along his own property line. Trustee Fiori expressed some concerns about potential precedents being established through this decision and had some questions about the fire department's position on the permit. Trustee Lee said that he would support the Planning Commission recommendations, but was disturbed by the extent of the encroachment. Trustee Croughwell asked some questions about decreasing the wall height on the Boulder St. side and said she was inclined to agree with the Planning Commission. Trustee Long agreed that there are some difficulties with the wall's placement, but felt that the safety issues could be worked out and the corner improved. Mayor Pro Tem Mueller expressed his opinion that many of the safety issues are the result of the new sidewalks, and sought clarification from Beery as to why the permitting process was necessary. He stressed his desire that the wall height be lowered, the indemnification agreement be drafted, and that Mitchell pay for the Town's attorney fees to draft the agreement. The Mayor believed the corner to be safer for pedestrians and cyclists now and agreed with the Planning Commission's recommendations.

Motion to extend the meeting to 10:30PM was made by Trustee Fiori, seconded by Trustee Long, and approved by a vote of 6-1, with Trustee Perret voting no.

Motion to approve Resolution 2012-28, concerning an encroachment permit for 8 W. Boulder St. including those recommendations of the Planning Commission and conditioned upon the execution of a indemnification agreement within 60 days and that the applicant pay the Town's attorney fees, was made by Trustee Lee, seconded by

Trustee Croughwell, and approved by a vote of 6 to 1, with Trustee Perret voting no.

The Mayor raised the issue of agenda management, given the time constraints.

Motion was made by Trustee Fiori to reconsider the Oktoberfest 2013 Special Event Permit in light of the new evidence discovered. As he was on the prevailing side of the original motion, this was proper. The motion was seconded by Trustee Lee and approved unanimously.

Motion to lay the motion to approve the Oktoberfest 2013 Special Event Permit on the table was made by Trustee Fiori, seconded by Trustee Long and approved by a vote of 6 to 1, with Trustee Perret voting no.

4. Consideration of Contract between the Town and Huitt-Zollars Inc. for NedPeds design.

Reis introduced the item and responded to questions from the Trustees. Everson noted that the DDA had approved the contract.

Motion to approve the contract between the Town and Huitt-Zollars, Inc. for the NedPeds project design was made by Trustee Lee, seconded by Trustee Fiori, and approved unanimously.

The Board elected to move forward with Agenda Item #8.

5. Consideration of Intergovernmental Agreement between the Town and the DDA to govern how the CDOT NedPeds funding will be managed.

This item was tabled for consideration at a future meeting.

6. Consideration of Resolution 2012-29, allowing the DDA to borrow funds from the Town, to be paid back from TIF funds, to fund the NedPeds design.

This item was tabled for consideration at a future meeting.

7. Consideration of CML policy position concerning municipal fines.

This item was table for consideration at a future meeting.

8. Consideration of new information bearing on Oktoberfest 2013 Special Event Permit  
Myers introduced the item and referred the Board to the packet's AIM for the reasons for  
this item appearing before them again.

Scott Smith spoke in support of the permit's approval, noting the economic stimulus the  
event could provide.

Michael Hoffman, of Nederland, spoke in support of the event and in support of the  
organizers.

Brian Alers, of Nederland, spoke in support of the event, noting that it will be a family-  
oriented activity and reasonable in price. He argued that the race would hardly impact the  
streets, and could create a new image for Nederland.

Gene Smith, of Nederland, spoke in support of the event.

Bob Bentz, one of the organizers, spoke to the efforts of the event to add a local non-profit  
component, changing the route, and acquiring the additional permits necessary.

Barbara Hardt, of Nederland, spoke in favor of the event and noted the positivity of the  
event.

Mitchell spoke in support of the event.

Carline spoke to oppose the event. She noted that she is not opposed to the idea of a bike  
race, but is opposed to the way the organizers have proceeded with their planning,  
particularly given their lack of contact with property owners and the alleged  
misrepresentations made by one of the organizers. She urged the Board not to sanction  
those approaches and to look for a better option for a new event in town.

Evans argued that all organizers must play by the same rules and any misrepresentations  
made should be rectified.

Motion to extend the meeting until 11:00PM was made by Trustee Long, seconded by



Trustee Croughwell, and approved by a vote of 6 to 1, with Trustee Perret voting no.

McDonald suggested that the route simply be changed.

Bentz responded that he did not misrepresent himself in the TRC meeting nor before the Board.

Myers clarified the TRC's request for a map and what was actually provided.

Trustee Fiori stressed that he didn't see how the local economy would be benefitted from the event, despite his pleasure in learning that the event had partnered with the Peak to Peak Healthy Communities Project. He reminded Bentz that the Board and staff must conduct due diligence. He further suggested that the Town craft a resolution requiring a \$5,000 deposit for all large events.

The Mayor clarified for Bentz that the Town must go through particular processes and that the Board will be trying to place certain conditions on the motion.

Motion to modify the standing motion to approve the Special Event Permit for Oktoberfest 2013 to convert it to a motion to continue the matter until the Board's October 16<sup>th</sup> meeting was made by Trustee Fiori, seconded by Trustee Croughwell and approved unanimously. The Mayor clarified that no further public comment would be taken at the next meeting; only Board discussion and voting would occur.

**G. DISCUSSION ITEMS**

No Discussion Items were scheduled.


**H. OTHER BUSINESS**

No Other Business was discussed.

**I. ADJOURNMENT**

Motion to adjourn was made by Trustee Perret, seconded by Trustee Fiori, and approved by unanimous voice vote. The meeting was adjourned at 10:59PM.

Approved by the Board of Trustees.

  
Joe Gierlach, Mayor

ATTEST:

  
Teresa Myers, Town Clerk

