

**TOWN OF NEDERLAND
BOARD OF TRUSTEES
REGULAR MEETING MINUTES:
August 20, 2013, 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 Joe Gierlach, Mayor Pro Tem Kevin Mueller, Trustees Randy Lee, Ledge Long, Chris Perret, Peter Fiori and Annette Croughwell.

Also present: Alisha Reis, Town Administrator, Chris Price, attorney from Murray Dahl Kuechenmeister & Renaud, Eva Forberger, Town Treasurer, and Michele Martin, Town Clerk.

C. CONSENT AGENDA

- Approval of August 20, 2013 Accounts Payable.
- Approval of August 6, 2013 Regular Meeting Minutes.

It had been brought to staff's attention to split out, and have a separate vote, for warrant #27652 to Joe Gierlach for \$1,762.12.

Trustee Perret questioned the \$2,748.13 for Titan Machinery, which included a replacement door for the skid-steer and asked how it was broken. Reis will get the details from Public Works for the Board.

Mayor Pro Tem Mueller asked about the Standard Operating Procedures (SOP) at the Wastewater Treatment Plant. Reis said that Ramey Environmental was almost complete in separating the warranties from the operations and maintenance manuals. The plan is to have a

eparate warranty book and SOP book all in one place. Reis will provide an update at the next meeting.

Motion to approve the Consent Agenda, pulling warrant #27652, was made by Trustee Fiori, seconded by Trustee Lee, and passed, noting that Trustee Croughwell was absent from the vote.

Motion to approve warrant #27652 for Joe Gierlach for \$1,762.12, was made by Trustee Fiori, seconded by Trustee Perret, and passed, noting Mayor Gierlach abstained and Trustee Croughwell was absent from the vote.

D. PUBLIC COMMENT ON NON-AGENDA ITEMS

Campbell Dawson, said he is a brand new community member and wanted to let folks know that he is a charity auctioneer and also emcees events. He was offering his services to the community.

Trustee Croughwell joined the meeting at 7:10 after roll call was taken.

E. INFORMATIONAL ITEMS

There were no informational items scheduled.

F. ACTION ITEMS

1. Consideration of contract award related to the Community Center Master Site Plan. Reis introduced the item. The Town had budgeted \$10,000 in the 2013 Capital Improvements Program (CIP) for a community center site master plan. A Community Center Site Plan Committee was formed, which included four members of the Nederland Community Center Foundation Board (CCFB), as well as Reis and others. RFPs were received by July 22 and the committee unanimously recommended Workshop8, a modern, sustainable architecture and design firm located in Boulder, which also includes representatives from Norris Design (Comprehensive Plan update) and JVA (Master Infrastructure Plan).

Reis said the project will create a phased long-term plan for the site to address drainage, traffic flow, neighborhood connectivity, use of the west wing area, landscaping, parking, and other considerations for the Community Center. The project cost is \$15,200. The CCFB has contributed \$1,000; the remaining funds of \$4,200 would need to need to come from reserves or

be budgeted for next year.

There was no public comment.

Dale Porter, Chairman of the CCFB and the Community Center Site Plan Committee, was present to answer questions.

Mayor Pro Tem Mueller recommended a joint work session with the CCFB to flesh out the scope of work to ensure it leads in the direction of Envision 2020. Porter suggested August 29, when the CCFB has scheduled their first meeting with Workshop8. Porter will look into rescheduling the time of the meeting to when the Trustees will be available. Porter asked Mueller to email him any concerns before the meeting.

Trustee Fiori said it was hard to come to the CCFB with any recommendations, because the CCFB does such a good, thorough job, but Fiori expressed his desire to see some out of the box ideas, such as getting the west wing off the grid. Fiori will send some suggestions to Porter prior to August 29.

Mayor took a straw poll to take the additional \$4,200.00 from this year's general fund reserves or through the 2014 budget planning process for Capital Improvement Projects. The Board direction was to use reserves to pay the additional cost.

Motion to approve the contract award to Workshop8 related to the Community Center Master Site Plan project, was made by Trustee Long, seconded by Trustee Croughwell, and approved unanimously.

2. Consideration of Ordinance 720, amending Nederland Municipal Code Chapter 6, et al., related to the regulation of retail marijuana businesses.

Reis introduced the item. This Ordinance was introduced at the Board's August 6 meeting. Following that meeting a few questions remained, such as holding a public hearing for the licensing process, refunding the operating fee if the license application is denied, and the distance setback requirement from educational facilities. It was noted that the public hearing notice for this meeting had been properly posted.

The definitions of establishment vs. business vs. entity were discussed, with Trustee Fiori presenting the concern of how caregivers and hobbyists would be protected. Chris Price said that it is clear that this ordinance does not pertain to caregivers, as it is written.

Trustee Long asked what the impacts of a testing facility might be on a neighborhood.

The Mayor opened the meeting to public comment.

Amber Greves, of Nederland, said she did not see a balance between this proposed ordinance and what our website says about Nederland having a future as the hub of the Peak to Peak Community. Greves said she was concerned about the 100-foot setback from educational and child care facilities and questioned why the topic of a public hearing and refunding operating fees were even up for consideration, as the State clearly wants these establishments to be treated like liquor licenses, where public hearings are part of the process and fees are not refunded. Greves said she also wanted the Board to reconsider limiting the number of licenses, as was part of the original ordinance and now is gone from this version.

Sally Grahn, of Nederland, asked the Board to remove the Neighborhood Commercial (NC) zoning district from Section 6-284 Place of Operation. Grahn went on to read the definition of NC from the Municipal Code, where the district is established to accommodate residential and a limited range of commercial uses that do not have a significant incompatibility with residents or cause an increase in traffic volume on secondary residential streets. Grahn said, from her experience as a property owner during the implementation of Medical Marijuana licenses, an increase in traffic was so significant that people were parking on her private property, and she said she had to hire someone to put rocks down to prevent future issues. Grahn then went on to read the types of commercial uses that are allowed in NC, such as office, financial, medical, and personal service establishments, where people are scheduled by appointment.

Theresa Bradley, of Nederland, also requested that NC be removed from the list of allowable zoning districts for marijuana-based businesses. Bradley said she does not believe these establishments would be compatible uses for this district, as this district has a lot of children residing there, and suggested it would be similar to having a liquor store in the neighborhood. Bradley also said the proposed hours of operation until midnight are inappropriate for this neighborhood. Bradley said she did not agree with the 100-foot distance and reiterated that a public hearing should be part of the process, because these licenses are supposed to be treated like liquor licenses.

Jeannette Smith, of Nederland, voiced her concern for teenagers and spoke of two grown men in their 50s that she knows who smoked marijuana while they were teenagers, and the fact that she feels they still act and function as teenagers. Smith said that studies have shown that

devastating results can occur for those that consume marijuana, and marijuana can negatively affect parts of the brain and reduce an IQ by as much as 8 points.

Stephen LeFaiver, Director of TEENS, Inc., talked about the numerous studies out there in regards to the effect of marijuana on developing brains. LeFaiver brought up the Envision 2020 Survey, particularly page 29, question 4 asking teens if there was one thing to change about Nederland, what would it be? The #1 response was drug control, and the #3 response was fewer medical marijuana dispensaries. LeFaiver said he did not believe the gateway park area, in general, was a healthy environment to have these establishments as it would be too close to the Teen Center, and he said he felt this would be just like tobacco, which targets youth in its marketing. He said he would like to see at least a 500-foot distance from the Teen Center, and hopes that the Town has plans to increase taxes to help support prevention and educational programs to help mitigate some of the impacts that will occur.

Barbara Hardt, of greater Nederland, thanked the Board for all their hard work on this proposal. Hardt had sent in two letters to the Board, included was a map with 500-foot radius circles from the schools, which she said she believes is a lot more reasonable for the kids. She thanked the Board for not allowing smoking café-type of establishments in Town, which could cause second hand smoke problems.

Pat Everson, of Nederland, would also like the Board to reconsider removing the NC zone from retail marijuana stores allowances. Everson said the language of Section 6-284, Place of Operation, was confusing for testing and cultivation facilities, as every zone is listed. Everson asked the Board to restrict those facilities to commercial zoning rather than residential. She said she had some concerns over a testing facility, and how it could grow from a small room to a large facility.

Sopa Harmann, of greater Nederland, spoke to State House Bill 13-1317. Harmann said she felt that testing and education is very important, especially with conflict mediation and she volunteered to head that up.

Kathleen Chippi, of greater Nederland, discussed the 1,000-foot setback law set by the Federal Government and when they tried to implement the law in Washington, DC, they found it was too restrictive and changed it to 300 feet. Chippi said as far as the concern over children, this law is intended for adults 21 and over, and said that parents should treat it the same as alcohol and advise their children not to smoke until they are 21.

The Mayor called a brief recess. The meeting reconvened at 8:30 PM

Mayor Gierlach asked Trustee Fiori for his opinion as the Chairman of the Mayor's Task Force. Fiori expressed his disappointment in the lack of public participation in the Nederland Planning Process (NPP) and said that those were the forums for the public to show up and voice their concerns, so that the Task Force could have taken these concerns into consideration while drafting the ordinance. Fiori said that as a Task Force, limiting the amount of licenses was a heated topic; they had deliberated back and forth for many meetings on this. The Task Force had decided not to limit the number so as not to create a golden ticket, which creates unhealthy business. The Task Force wanted the best business models to be able to conduct business. Fiori said the Task Force had two directives: to provide a legal, safe, and cost-effective way for the existing black market to become regulated, and not to lose families and the community in the process.

The first few questions before the Board were whether to allow a cultivation facility, product manufacturing facility, and/or a retail marijuana store in the NC zone, and what should be the distance from an educational facility? Discussion ensued on sensitivity to residents in the NC district and the power and duties of the Planning Commission to recommend appropriate approvals of Special Review Use Permits (SRU). Trustee Lee expressed the view that retail establishments were incompatible with the primarily residential character of NC zoning and said that he could not vote for the measure if this use remained in the ordinance.

Mayor took several straw polls related to the setback distance from schools, use group allowances for the various zones, operating fee refunds and other issues to help gain an understanding of where the Board was sitting on the issues prior to moving on in the discussion.

Reis had been directed by Town Attorney Beery that if amendments took place, a base motion at a minimum would need to be made, along with a vote for each amendment. Mayor Gierlach asked Reis to delineate the amendments as discussed for a vote. Reis coordinated the amendments:

Section 6-284 Place of Operation (8) – changing “no marijuana establishment” to “no retail marijuana store”. Mayor called for a vote, the amendment passed by a vote of 7-0.

Section 6-278 Denial and Appeal of Denial (2) – changing “the operating fee shall not be

refunded” to “the operating fee shall be refunded by 50%”. Mayor called for a vote, the amendment passed by a vote of 7-0.

Motion to continue the meeting to 10:30 PM was made by Trustee Perret, seconded by Mayor Pro Tem Mueller and unanimously approved.

Section 16-32 Use Groups (c) use group table, under column of NC, changing the “Y” to an “R” for a Marijuana Testing Facility. Mayor called for a vote, the amendment passed by a vote of 4-3, with Trustees Fiori, Lee and Croughwell opposed.

The Board of Trustees expressed the desire to make amendments to the local licensing authority, as presented in Section 6-279 Issuance of a License (typo, draft shows 16 instead of 6) – Reis said such a change would be a significant one for the ordinance and should be handled separately, after re-drafting the relevant portions with the Town Attorney. The ordinance would then return to the Board for consideration.

The Board indicated that the language needs to be changed to fit the intent of having the Board of Trustees act as the local licensing authority and hold a public hearing related to retail marijuana stores only. The local licensing authority would be the Town Clerk, without a public hearing needed, for all other retail marijuana-based uses.

Reis and Beery will draft this change. Denoting a licensing authority is the only item required by the State at this time. Reis advised the Board that they could approve Ordinance 720 with the three amendments voted on tonight, and then vote on an amendment to change the licensing authority later.

Motion to approve Ordinance 720, with the three amendments voted on by the Board, amending Nederland Municipal Code Chapter 6, et al., related to the regulation of retail marijuana businesses, was made by Trustee Fiori, seconded by Trustee Perret, and approved by a vote of 6-1, with Trustee Lee opposed.

G. DISCUSSION ITEMS

There was no discussion items scheduled.

H. OTHER BUSINESS

Mayor Pro Tem Mueller asked for an update on the performance space near Barker Reservoir. Reis talked about the final grading plan and drainage and told the Board there would be an

agenda item on their September 3 meeting to discuss the electrical portion of this project, as the quotes have come in much higher than anticipated. If anyone has any questions, Reis has requested them be sent to her prior to the next meeting.


I. ADJOURNMENT

Motion to adjourn was made by Trustee Croughwell, seconded by Trustee Lee, and approved by unanimous voice vote. The meeting was adjourned at 10:12 PM.

Approved by the Board of Trustees.


Joe Gierlach, Mayor

ATTEST:


Michele Martin, Town Clerk

