

**TOWN OF NEDERLAND
BOARD OF TRUSTEES
REGULAR MEETING MINUTES:
October 1, 2013, 7:00PM**

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

A. CALL TO ORDER

Meeting convened at 7:16 PM.

B. ROLL CALL

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

Absent: Trustee Annette Croughwell.

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

C. CONSENT AGENDA

- Approval of October 1, 2013 Accounts Payable, Schedule A.
- Approval of October 1, 2013 Accounts Payable, Schedule B.
- Approval of September 17, 2013 Regular Meeting Minutes.

Motion to approve the Consent Agenda, Schedule A, and minutes of September 17, 2013 was made by Trustee Lee, seconded by Trustee Perret, and passed.

Motion to approve the Consent Agenda, Schedule B, was made by Trustee Perret, seconded by Trustee Fiori, and passed, noting Trustee Lee abstained.

D. PUBLIC COMMENT ON NON-AGENDA ITEMS

There were no comments.

E. INFORMATIONAL ITEMS

1. Acceptance of resignation of Donna Sue Kirkpatrick from the NDDA.

Reis introduced the item. A memo was sent from the Nederland Downtown Development Authority (NDDA) simply to acknowledge Donna Sue's Kirkpatrick's resignation, effective July 17, 2013. The DDA would like to now start advertising the vacancy.

2. Update on NedPeds project.

Reis introduced the item. NedPeds project manager Conor Merrigan had prepared a memo outlining the DDA's direction in light of the recent flood and its potential impact on the project in regards to contractor's schedules and bids.

Reis noted that the Planning Commission reviewed the 90% plans at their September 25 meeting. Trustee Lee noted that PROSAB had reviewed the plans, as well, at their most recent meeting.

Trustee Perret talked about the pros and cons of going out to bid now vs. waiting until after the flood emergencies have calmed down.

Pat Everson, Chair of DDA, was present to answer questions. With so much uncertainty, the DDA has decided to go out to bid sooner than anticipated and not to bring on a construction manager for the RFP phase due to the acceleration of the schedule. Everson was asked if there were any issues with waiting, and she said just possible inflation and the delayed timing of the project. The DDA plans to start in early spring. Everson said she thought the CDOT historical clearance work was one of the major holdups, yet the DDA paid for the research, so they did not have to wait on CDOT to do the work.

F. ACTION ITEMS

1. Consideration of Resolution 2013-08 to appoint Sergeant Larry Johns as interim Police Chief.

Reis introduced the item. Since September 20, former Chief Jake Adler's last day, Sergeant Larry Johns has been acting as Town Marshal. This resolution would officially appoint Sgt. Johns as interim Town Marshal.

Mark Rose, of Nederland, spoke in support of Sgt. Johns.

Reis discussed the next steps in the new chief hiring process. The deadline for applications is October 11 and Town has received 23 applications to date. Sgt. Johns plans to guide the

department through the transition.

Motion to approve Resolution 2013-08 to appoint Sergeant Larry Johns as interim Police Chief was made by Trustee Perret, seconded by Trustee Lee, and approved unanimously.

Town Clerk Martin swore Sgt. Johns in.

2. Consideration of Resolution 2013-09 to amend the Fee Resolution to add operating fees for retail marijuana establishments.

Forberger introduced the item. The Board had passed Ordinance 720 on August 20, which governed how recreational marijuana would be regulated. This resolution would amend the Fee Resolution to include the fees to regulate those establishments. Forberger had four (4) options before the Board. Option 1 was similar to liquor fees with a \$1,000 new and \$500 renewal fee; Option 2 was a little higher because of the unknowns with a \$1,500 new and \$750 renewal fee; Option 3 was based on the Town's medical marijuana fees of a \$5,000 new and a \$1,500 renewal fee; and Option 4 was the recommendation from the Mayor's Task Force on Retail Marijuana with \$575 for a new and renewal fee.

The Board talked about the State fees, which were acknowledged to be high.

Mayor Gierlach opened the meeting for public comment.

Stacy Johnson, of Rollinsville, and former local Medical Marijuana business owner, current caregiver, and member of the Mayor's Task Force, encouraged the Board to stand by the Task Force's recommendation. Johnson said that by keeping fees low, it would enable small establishments to exist, which makes up the character of Nederland.

Mark Rose, of Nederland, also urged the Board to follow the Task Force's recommendation. Rose said he felt the State was gouging folks and high fees would continue to drive people into the black market.

After much discussion, the Board agreed 5-1 to take the Task Force's recommendation, Option 4, noting that Trustee Lee felt that Option 1 was better suited since, he said, that Amendment 64 was originally supposed to be treated similar to liquor.

Trustee Fiori pointed out that the Task Force had also recommended locking in those fees for a two-year period to let the industry take hold and then re-evaluate the fee schedule at that time.

Trustee Lee asked Reis if staff felt that Option 4 would cover staff cost. Reis responded that it was hard to tell at this time as no one knows what exactly to expect. Reis said that during the roll-out of medical marijuana, the Town received no support from the State, yet she hears there will be better support this time. Reis said she felt the fees would at least cover the SAFEbuilt portion of cost for inspections, and since there will be only a few existing establishments transferring over to recreational to start with, staff can view this as a pilot program to access how it unveils.

Motion to approve Resolution 2013-09 to amend the Fee Resolution to add operating fees, Option 4, for retail marijuana establishments was made by Trustee Fiori, seconded by Trustee Perret, and approved unanimously.

3. Consideration of Ordinance 721, amending Ordinance 720 Regulation of Marijuana, regarding local licensing authority changes as introduced on August 20.

Reis introduced the item. At its August 20 Board meeting, the Board adopted Ordinance 720 Regulation of Marijuana. At that time, the Board had several amendments that were incorporated into the ordinance, which became effective after the State mandated 30-day publication period. One outstanding amendment from August 20 was to clarify the respective roles of the Town Clerk and Board of Trustees in licensing issues. The Board had indicated a desire for the local licensing authority to be changed to fit the intent of having the Board of Trustees act as the local licensing authority and to hold a public hearing related to retail marijuana stores only, and the Town Clerk to retain licensing authority for all other retail marijuana establishments. Due to the lengthy task of changing this verbiage, staff had advised the Board that the best way to accommodate their request would be as a formal amendment, which is contained in proposed Ordinance 721.

Town Attorney Beery walked the Board through Ordinance 721. There was discussion on the seven-day timeframe in which one could appeal. Trustees Lee and Long still did not agree with a retail marijuana store being allowed 100 feet from a school (rather than further), or the allowance of having establishments in the Neighborhood Commercial zoning district.

There was no public comment.

Motion to approve Ordinance 721, amending Ordinance 720 Regulation of Marijuana, regarding local licensing authority changes as introduced on August 20 was made by Trustee

Fiori, seconded by Trustee Perret, and approved by a vote of 5-1, with Trustee Long opposed.

G. DISCUSSION ITEMS

1. Discussion and introduction of an Ordinance amending Nederland Municipal Code Chapter 16-32(c), Use Chart to include club uses.

Reis introduced the item. This consideration originated in response to direction by the Planning Commission (PC) at its meeting of June 26, during review of an application for zoning designation related to a social club/cannabis café proposal. A club definition was in the Zoning Code, yet it was never conveyed into the Use Group Table, which documents which zoning districts within which uses are permitted to operate. This proposed ordinance is the recommendation by the PC from their September 4 meeting, previous meeting discussions, and research conducted in regards to how other municipalities handle club use. The PC voted to eliminate the “monetary gain” part of the definition.

The questions before the Board are whether to accept the PC’s recommendations as outlined in the draft ordinance; whether there is additional feedback to direct to staff; and whether the Board wishes to advance the draft ordinance for action at their next meeting, as ordinances must be introduced first.

There was one person signed up to speak.

Stacy Johnson, of Rollinsville, spoke in favor of having some sort of facility, especially since the intent of legalizing marijuana was for it to be treated like alcohol, and without a facility to use marijuana, in the spirit of a bar, then a large part of the intent would be missing.

Trustee Fiori had several comments and suggested for the Board take their advisory board’s recommendation. Fiori then commented that he thought the Town should lump alcohol, tobacco, and marijuana together, so that children could see that the Town considers them similar as addictive substances/inebriants, but that the Town considers them acceptable in our society, if done responsibly.

The Board discussed the possibility of having two line items for club definitions, one for a Boy Scout-type of club (fraternal organization) vs. an inebriant type of club, and to elaborate on those definitions further.

Trustee Lee said he would be in support of the PC's recommendation of adding clubs to the use group table, but only if the definition excluded marijuana, alcohol and tobacco uses.

Mayor Pro Tem Mueller supports the PC recommendations and noted that an amendment can be adopted quickly enough, if warranted.

Trustee Perret suggested tweaking the PC's recommendations by changing to all Rs (requiring a Special Review Use) across the zoning districts columns as they pertain to club uses.

Trustee Fiori suggested the two definitions to be "club for-profit" and "club not-for-profit".

Mayor Gierlach went through the options the Board presented.

Two members of the public asked to speak, and even though this was a discussion item, the Mayor opened the floor to the public.

Cheryl Fanelli, of Nederland, said she has been working on a club use since January. She said she wanted the Board to know that her proposed club would be highly regulated; there is a sobriety check set-up, limit of three (3) employees, it's proposed to be well lit, and many other details.

Sara Hodges, of Jamestown, commented on the definitions that were being discussed and suggested certain ones may exclude private supper clubs, as well as other similar activities.

The Board directed staff to move this ordinance to action for their next meeting with the inclusion of two types of definitions for club use.

The Mayor called a brief recess, the meeting reconvened at 9:00 PM.

2. Discussion of a Resolution, regarding a Board of Trustees policy on taking positions on statewide issues (e.g. ballot issues).

Reis introduced the item. On September 17, the Board had directed staff to draft a resolution regarding the Board's endorsements policy related to statewide ballot issues. Reis did note that resolutions of endorsement are allowable as per the Fair Campaign Practices Act.

There was much debate on whether the Board should take a position on statewide issues vs. issues in general, only vote on items that directly affect Nederland or if a resolution was needed at all.

Trustee Lee was generally in favor of taking positions on issues, but not ballot issues where it may be directing the public on how to vote.

Trustee Fiori suggested that a super majority vote should pass a resolution of endorsement. All were in agreement and the definition of a super majority was agreed to be 5 members.

It was agreed to direct staff to move this for approval at the next meeting of the Board.

3. Discussion of a Resolution to support Amendment 66.

Reis introduced the item. The Board had received a presentation by Bell Action Network regarding Amendment 66 at its meeting of September 17. Reis has provided a packet of information for the Board, including pros and cons of the measure.

Forberger had attended a BVSD meeting where Amendment 66 was discussed and elaborated on some of the issues and costs for the Board.

After a brief deliberation, it was agreed to move this forward for action at their next meeting, by a vote of 5-1, with Trustee Lee opposed.

H. OTHER BUSINESS

Trustee Fiori asked that the Town review the medical marijuana fees.

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 9:32 PM.

Approved by the Board of Trustees.

ATTEST:


Michele Martin, Town Clerk


Joe Gierlach, Mayor

