

**TOWN OF NEDERLAND
Boulder County, Colorado**

RESOLUTION 2012 - 28

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF NEDERLAND GRANTING A REVOCABLE ENCROACHMENT PERMIT FOR A PORTION OF BOULDER STREET AND BRIDGE STREET ADJACENT TO AND NEAR LOTS 9 AND 10, BLOCK 2 OF THE ORIGINAL NEDERLAND SUBDIVISION, NEDERLAND, COLORADO

WHEREAS, C.R.S. § 31-15-702 authorizes the Town of Nederland (“Town”) to manage and regulate the use and occupation of lands dedicated to the public use as rights-of-way; and

WHEREAS, it has come to the Town Board of Trustees’ (“Board”) attention that certain improvements currently encroach into and over the public rights-of-way known as Boulder Street and Bridge Street, as further described herein; and

WHEREAS, the Board finds and determines that such encroachment is not currently harmful or disruptive to the public’s use of the right-of-way for public use and travelling purposes; and

WHEREAS, the Board further finds that such encroachment could, in the future, be detrimental to and inconsistent with the public use of Boulder Street and Bridge Street; and

WHEREAS, the Board therefore determines that it is necessary and desirable to formalize an arrangement under which the current encroachments are permitted while maintaining the Town’s ability to require that such encroachments be removed in the future; and

WHEREAS, the Board therefore desires to approve the revocable encroachment permit under the terms and conditions set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF NEDERLAND, COLORADO:

Section 1. The Board of Trustees hereby grants and approves a revocable encroachment permit to the owners of those encroaching improvements illustrated on **Exhibit A**, attached hereto and incorporated herein by this reference, to occupy a certain portion of the public rights-of-way known as Boulder Street and Bridge Street within the Town of Nederland, County of Boulder, State of Colorado, more specifically described in **Exhibit B**, attached hereto and incorporated herein by reference. This encroachment permit may be revoked by the Town at any time and for any reason by Resolution of the Board of Trustees.

Section 2. After approval and execution, the Town Clerk is directed to record this Resolution and its Exhibits in the real property records of the Boulder County Clerk and Recorder’s Office. The Town Administrator and Town Clerk are further authorized to execute any and all instruments necessary to effectuate the intent of this Resolution.

Section 3. This Resolution shall take effect immediately upon adoption.

RESOLVED, APPROVED and ADOPTED this 2nd day of October, 2012.

TOWN OF NEDERLAND

By:


Joe Gierlach, Mayor

ATTEST:


Teresa Myers, Town Clerk



EXHIBIT A
[SITE PLAN/SURVEY – DATED 25 SEPTEMBER 2012]

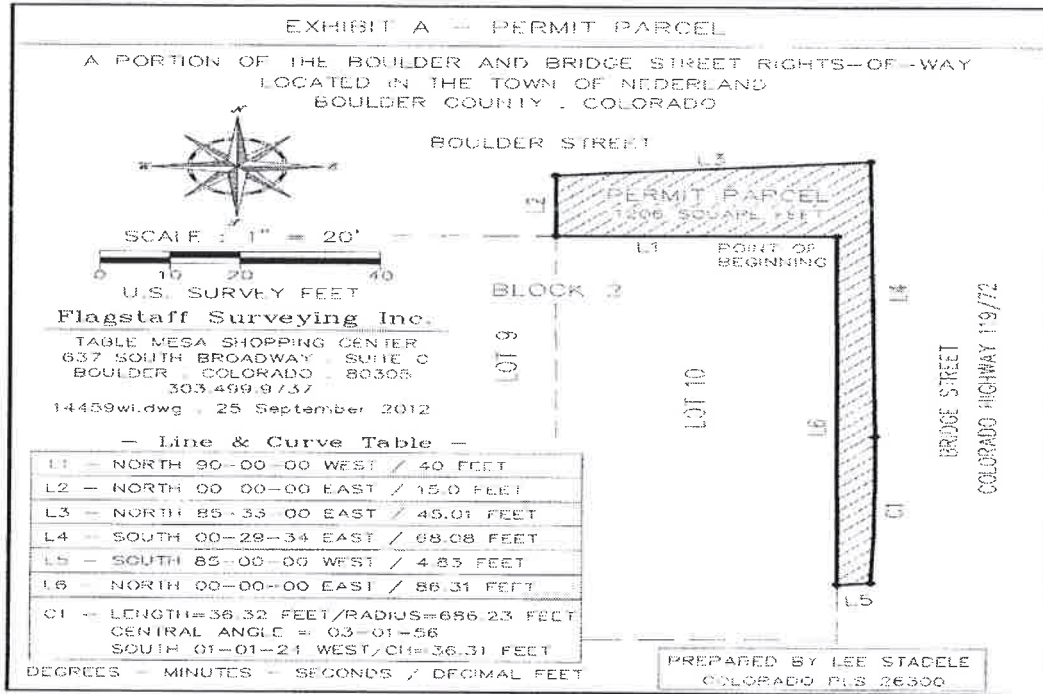


EXHIBIT B
[LEGAL DESCRIPTION]

Flagstaff Surveying Inc.

Permit Parcel

A parcel of land that is a portion of the Bridge and Boulder Street road rights-of-way, in the Town of Nederland, located in the Southwest quarter of Section 13, Township 1 South, Range 73 west of the 6th P.M., in the County of Boulder, State of Colorado, more particularly described as follows:

Beginning at the northeast corner of Lot 10, Block 2, TOWN OF NEDERLAND; according to the recorded plat thereof;

Thence North 90 degrees 00 minutes 00 seconds West, along the northerly line of Lot 10, a distance of 40 feet to the northwest corner of Lot 10;

Thence North 00 degrees 00 minutes 00 seconds East, a distance of 15 feet;

Thence North 85 degrees 33 minutes 00 seconds East, a distance of 45.01 feet to a point on the west line of the Colorado State Highway 119/72 road right-of-way;

Thence South 00 degrees 29 minutes 34 seconds East, along the west line of the State Highway right-of-way, a distance of 68.08 feet to the beginning of a curve to the right;

Thence 36.32 feet along the arc of the curve, said curve having a radius of 686.23 feet, a central angle of 03 degrees 01 minutes 56 seconds and being subtended by a chord that bears South 01 degrees 01 minutes 24 seconds West, 36.31 feet;

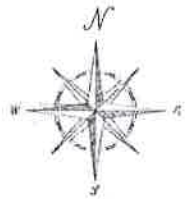
Thence South 85 degrees 00 minutes 00 seconds West, a distance of 4.83 feet to a point on the East line of Lot 10;

Thence North 00 degrees 00 minutes 00 seconds East, along the east line of Lot 10, a distance of 86.31 feet, to the **Point of Beginning**.

The permit parcel contains 1206 square feet.

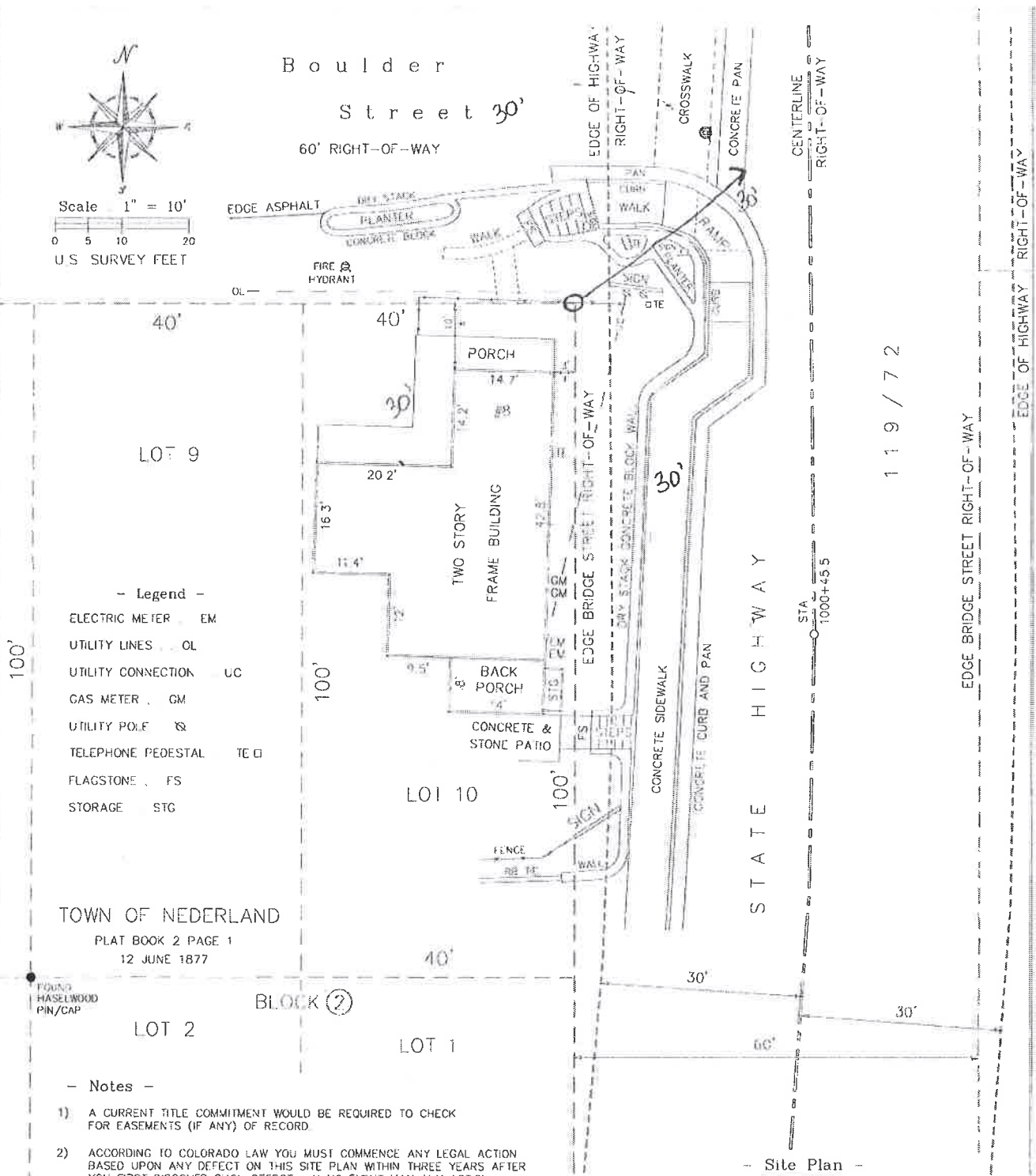
Prepared by Lee Stadle
Colorado PLS 26300
Work doc - 14459w1.doc

- 637 South Broadway - Suite C - Table Mesa Shopping Center
Boulder, Colorado, 80305
p-303.499.9737 LeeStadle@FlagstaffSurveying.com



Scale 1" = 10'
0 5 10 20
U.S. SURVEY FEET

Boulder Street 30'
60' RIGHT-OF-WAY



- Legend -
- ELECTRIC METER EM
 - UTILITY LINES OL
 - UTILITY CONNECTION UC
 - GAS METER GM
 - UTILITY POLE
 - TELEPHONE PEDESTAL TC
 - FLAGSTONE FS
 - STORAGE STG

TOWN OF NEDERLAND
PLAT BOOK 2 PAGE 1
12 JUNE 1877

- Notes -
- 1) A CURRENT TITLE COMMITMENT WOULD BE REQUIRED TO CHECK FOR EASEMENTS (IF ANY) OF RECORD.
 - 2) ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT ON THIS SITE PLAN WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT ON THIS SITE PLAN BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
 - 3) THIS SITE PLAN HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF RON MITCHELL AND THE TOWN OF NEDERLAND.
 - 4) THIS SITE PLAN IS BASED UPON SURVEY WORK PERFORMED FOR THE TOWN OF NEDERLAND STREET-SCAPE PROJECT AND NUMEROUS SURVEY MONUMENTS FOUND ALONG THE HIGHWAY CORRIDOR.

- Site Plan -

for Ron Mitchell & the Town of Nederland
I HEREBY CERTIFY THAT I LOCATED THE BUILDING AND WALLS BASED UPON NUMEROUS SURVEY MONUMENTS ALONG THE STATE HIGHWAY RIGHT-OF-WAY CORRIDOR AND IN BLOCK 2 OF THE TOWN OF NEDERLAND. THE PURPOSE OF THIS SITE PLAN IS TO SHOW THE LOCATION OF THE DRY STACK CONCRETE WALLS LOCATED TO THE EAST OF THE BUILDING

- Flagstaff Surveying Inc. -

TABLE MESA SHOPPING CENTER
637 SOUTH BROADWAY SUITE C
BOULDER COLORADO 80305
303 499 9737

14459wl.dwg 20 August 2012

LEE STADELE
COLORADO PLS 26300

**TOWN OF NEDERLAND
BOARD OF TRUSTEES
REGULAR MEETING MINUTES:
September 18, 2012, 7:00PM**

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

A. CALL TO ORDER

Meeting convened at 7:00 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 September 18, 2012 Accounts Payable, Schedules A & B
- Approval of September 4, 2012 Regular Meeting Minutes
- Approval of Service Agreement with Golder and Associates for the Water Treatment Plant
- Approval of Amended Memorandum of Understanding between the Town and Teens Inc.

Town Clerk Myers pulled the MOU between the Town and Teens, Inc. due to some additional changes that need to be made in consultation with Teens, Inc.

Motion to approve the Consent Agenda, including Accounts Payable Schedule A was made by Trustee Lee, seconded by Trustee Fiori, and approved unanimously.

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

D. STAFF REPORTS

1. Alisha Reis, Town Administrator

Reis highlighted portions of her report, including the news that the free EcoPasses will continue through 2013, with some modifications to incorporate the new Smart Card technology.

2. Carmen Beery, Town Attorney

Beery asked the Board to consider her request to attend one meeting per month, rather than two. Trustee Fiori commented that the cost savings without compromising the provision of services should drive the decision. Trustee Lee commended Beery for her service to the Town and the value she brings; he expressed that he was uncomfortable with the idea of not having her present, because when she is absent, legal questions seem to arise and decisions are delayed until her counsel can be sought. The Board expressed support for the idea once Beery laid out the protocol for providing legal counsel with only one meeting per month. Trustees Fiori and Lee remained hesitant to agree to the idea, but ultimately the Board agreed to try the approach.

3. Teresa Myers, Town Clerk

Myers noted an addendum to her Clerk's report concerning business license enforcement, and reported to the Board that the Town had achieved 100% compliance of business licensing as of September 18th.

4. Eva Forberger, Town Treasurer

5. Jake Adler, Town Marshal

Reis, on behalf of Adler, noted that the Boulder County Sheriff has declared a "jail emergency" and discussed with the Board what that meant for Nederland.

6. Jason Morrison, Public Works Manager

Morrison informed the Board that the some of the PRVs have arrived and Public Works is waiting on a few more, at which time installation will commence.

7. Dawn Baumhover, Community Center Coordinator

On behalf of Baumhover, Reis noted the upcoming Art at the Center event and encouraged folks to attend. She informed the Board of an impending structural inspection of the old

Magnolia Schoolhouse to consider extending utilities there and re-opening it for community uses. Discussions with the community would begin sometime next year.

E. BOARD OF TRUSTEE REPORTS

1. Mayor Joe Gierlach

The Mayor's report highlighted some aspects of his "NederMayor Blog" to be published in *The Mountain-Ear*. He also mentioned his support letter to the Boulder County Commissioners for the purchase and operation of the Nederland Mining Museum.

2. Mayor Pro Tem Kevin Mueller

The Mayor Pro Tem reported that the Planning Commission Comp Plan steering committee will be holding a public charette shortly to receive feedback on various concepts of the plan.

3. Trustee Chris Perret

Trustee Perret reported that the BZA did not meet.

4. Trustee Randy Lee

Trustee Lee provided a written report but noted that D. A. Stan Garnett would not be appearing at the IMA meeting on 9/19/12.

5. Trustee Annette Croughwell

Trustee Croughwell, with the assistance of Reis, reported that the DDA is currently considering selection of the design contractor for the NedPeds Project.

6. Trustee Peter Fiori

Trustee Fiori reported that he had not been able to attend the SAB meeting due to a trip out of the country.

7. Trustee Ledge Long

Trustee Long talked to the Board about the Art at the Center event, two potential new members of the CCFB, and the new furniture being considered with the assistance of Town staff.

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

Dallas Masters, Chair of the SAB, reported that the SAB has been working on the Zero Waste Ordinance that the Board directed it to draft. He also informed the Board that a plastic bag ban was being discussed and he invited anyone interested to attend the next meeting to share opinions. Finally, he talked to the Board about the SAB discussion and scorecard of the Boating on Barker project. He highlighted pertinent parts of the scorecard

as scored by the SAB, which strongly favored the project. Mayor Pro Tem Mueller noted that some monitoring of the fauna in the area has been made and that information should be located and considered. Trustee Fiori opined that the SAB should identify topics that should be referred to the experts, rather than relying on SAB members exclusively. Trustee Lee shared that he felt it was a valuable experience to be part of the scorecard process.

Lenore Stehouwer, of Nederland, spoke out against the Aspen Grove preschool SRU, which was considered and rejected at the Board's last meeting, citing safety and congestion concerns.

Bruce Grieg, of Nederland, spoke against the Boating on Barker project, opining that it would ruin the quiet beauty of Barker Reservoir, that other nearby reservoirs serve the purpose, and that it will negatively affect property values.

Barbara Hardt, of Nederland, thanked the Board, the Mayor and Reis for their support of Boulder County's purchase of the Mining Museum.

Ann Howard, of Gilpin County, spoke in support of the Aspen Grove preschool SRU, noting that pick-up and drop-off at the school will be staggered, and that the maximum number of students at any given time is 17.

At this point, Beery clarified the legal parameters and procedures to move for a reconsideration of a previous quasi-judicial Board decision, including notifying the audience that further Board discussion about the Aspen Grove Preschool SRU was not permissible at this point.

G. INFORMATIONAL ITEMS

No Informational Items were scheduled.

H. ACTION ITEMS

1. Consideration of Wastewater Treatment Plant Change Order for Board-initiated options.

Forberger introduced the item and discussed the various changes the Board added. Reis

reminded the Board that the changes had come from direction given at its work session, and that the budget included funds for these kinds of changes. The Board asked some questions about the details of the changes. Mayor Pro Tem Mueller asked for more information concerning one of the energy efficiency aspects, and so asked that that portion of the change order be pulled. Reis suggested that the Board table the entire change order until October 2nd, rather than “piecemeal” the change order. The Mayor Pro Tem agreed to support the change order if the Board acknowledged that the payback time was not attractive. The Board discussed the Mayor Pro Tem’s request and agreed.

Motion to approve the Wastewater Treatment Plant Change Order for Board-initiated options was made by Trustee Long, seconded by Trustee Croughwell, and approved unanimously.

The Mayor called a short recess and the meeting reconvened at 8:45PM.

2. Consideration of Special Event Permit for Oktoberfest 2013 Bike Race and Music Festival.

Myers introduced the item and the event organizers. Trustee Long asked if the organizers had consulted local riders about additional usage of the trails, and asked some questions about the details of the course. Trustee Fiori asked some questions about the nature of the music and sound in the event. The organizers responded that music is likely to be a lesser element of the event (not a concert system), with more focus on food and the ride. Trustee Fiori also asked if the organizers were a non-profit, and the organizers explained that they were not and that instead the organization makes a charitable donation to a non-profit. Trustee Lee pointed out that there was not much of a local component to their plan. The organizers explained that the local benefit is the long-standing image of the community and the high quality of the visitors who will be coming to spend money in town. Trustee Croughwell sought clarification of what the approval or refusal would mean and what the local riders and environmentalists think of the event.

Hardt, of Nederland, spoke in support of the economic impact of the event, noted that the congestion effect of the number of riders would likely not be significant, and opined

that the organizers had not asked all the local non-profits to co-sponsor and she thinks that the non-profit directed money should be shared locally.

The Mayor Pro Tem asked if the organizers would cap the number of racers, and the organizers explained that they would not be in favor of capping the number of racers. They explained that they would be seeking growth with the event. Trustee Croughwell drew the conversation back to the potential impact on the town but generally supported the event. Trustee Fiori expressed his support for the event, but asked some questions about staffing and the cap on the number of future riders. Trustee Lee noted that the timing of the event is during an already busy tourist season, that many in town don't want more cyclists in town, and that there is no local component to the event.

The Mayor enumerated the conditions that he would like the Board to place on the event, based on the tone of the discussion, and asked that they be addressed. The Board discussed and clarified the conditions.

Motion to approve the special event application for Oktoberfest with certain conditions – the event must be a zero-waste event, a better plan for people management and security must be developed, trail repair and mitigation must be planned for, a local component must be included, and notice to neighbors in affected neighborhoods must be applied – was made by Trustee Fiori, seconded by Trustee Long and approved by a vote of 5-2, with Trustees Croughwell and Lee voting no.

3. Consideration of Special Event Permit for Paradapalooza 2012, a farewell parade honoring Vince Herman.

Myers introduced the event and explained the change in the parade route from what was included in the packet. The Board expressed strong support for the event.

Motion to approve the special event permit for Paradapalooza was made by Trustee Perret, seconded by Trustee Fiori, and approved unanimously.

4. Consideration of Resolution 2012-27, supporting a program to allow boating on Barker Reservoir.

Because the Board had already discussed and taken public comment on this issue, none occurred at this point. The item was tabled at the conclusion of the Board's last meeting because time expired before a vote could be taken. Therefore, only a vote was before the Board.

The Mayor explained the changes to the resolution, which were agreed upon at the close of the last meeting by a majority of the Board. The Board discussed the changes to the resolution.

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

Motion to approve Resolution 2012-27, supporting a program to allow boating on Barker Reservoir, was made by Mayor Pro Tem Mueller, seconded by Trustee Long and approved by a vote of 4-3, with Trustees Fiori, Perret, and Lee voting no.

5. Consideration of November meeting changes.

Myers explained the item and the reasoning behind it. The Mayor also pointed out that the January 1st meeting would need to be cancelled.

Motion to approve moving the November 6, 2012 meeting to November 13th and cancelling the November 20, 2012 and January 1, 2013 meetings was made by Trustee Croughwell, seconded by Trustee Perret, and approved unanimously.

I. DISCUSSION ITEMS

No Discussion Items were scheduled.

J. OTHER BUSINESS

Mayor Pro Tem Mueller moved to reconsider the Aspen Grove SRU previously voted down at the September 4th Board meeting. As he was on the prevailing side of the original motion, this was proper. The motion was seconded by Trustee Fiori and approved by a vote of 4-3, with Trustee Croughwell, Trustee Lee, and Trustee Perret voting no.

Motion was made by Mayor Pro Tem Mueller to modify his original motion (the motion to approve the SRU at the September 4 meeting) to instead move to continue the Board's consideration of the application to the regular meeting of October 2, 2012, to permit the applicants to investigate options and possible solutions concerning parking and roadway access, consistent with the Planning Commission's recommendations and the Board's discussion on September 4. The motion was seconded by Trustee Fiori and approved by a vote of 6 to 1, with Trustee Lee voting no.

Motion was made by Mayor Pro Tem Mueller to continue the matter to the October 2 meeting, seconded by Trustee Fiori and approved by a vote of 6 to 1, with Trustee Lee voting no.

Trustee Perret informed the Board that the shuttle from the high school to the Hessie trailhead was successful and Boulder County is considering new applicants to assume the shuttle service, preferably someone local. The shuttle operates weekends and holidays during the summer.

The Board set a work session to study the mycelium/composting project on November 27, 2012.

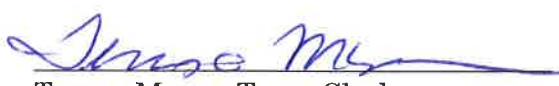
K. ADJOURNMENT

Motion to adjourn was made by Trustee Perret, seconded by Trustee Fiori, and approved by unanimous voice vote. The meeting was adjourned at 10:23PM.

Approved by the Board of Trustees.


Joe Gierlach, Mayor

ATTEST:


Teresa Myers, Town Clerk

