

Town of Nederland Board of Trustees Regular Meeting Minutes August 19, 2014 7:00 PM

Nederland Community Center
750 Hwy 72 Nederland, CO 80466

A. CALL TO ORDER

Meeting convened at 7:02 PM.

B. ROLL CALL

Present: Mayor Joe Gierlach, Trustees Randy Lee, Kevin Mueller, Topher Donahue, Charles Wood, and Mayor Pro Tem Peter Fiori.

Absent: Trustee Kris Larsen.

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

C. CONSENT AGENDA

- Approval of August 19, 2014 Accounts Payable.
- Approval of August 5, 2014 Regular Meeting Minutes.
- Approval of Caribou Ridge PUD/Vested Rights Transfer.
- Approval of Xcel Energy Utility Easement.

Motion to approve the Consent Agenda was made by Trustee Lee, seconded by Trustee Wood and passed unanimously.

Trustee Mueller took his seat at the dais at 7:04 PM.

D. STAFF REPORTS

1. Alisha Reis, Town Administrator

Administrator's report was included in the packet. Reis highlighted the Emergency and Continuity of Operations/Government Plans within the WebEOC (emergency operations center) cooperative program administered by Boulder County. Boulder County will conduct a tabletop exercise with the Board and staff at the end of September to run through different scenarios. September 25 date was confirmed for the exercise. Trustee Lee asked if an extended electrical outage was being prepared for. Reis replied multi hazards are planned at this point, but that would be a good thing to bring up during the exercise. Mayor Pro Tem Fiori asked

about the backup generator planned for the Community Center. Reis said the Grant application is being finalized this week for FEMA and State emergency funds. Fiori suggested asking Xcel to contribute. Reis will look into it.

2. Michele Martin, Town Clerk

Clerk's report was included in the packet. Martin also spoke to emergency preparedness in regards to records. Records are a vital part of the continuity of operations.

3. Eva Forberger, Town Treasurer

Treasurer's report was included in the packet with nothing else to add.

4. Paul Carrill, Town Marshal

Marshall's report was handed out on the dais; there was nothing else to add.

5. Jason Morrison, Public Works Manager

Public Works Manager's report was included in the packet. Trustee Mueller asked about the storage of sludge in the lagoon, the concern about odors, and asked if water would continue to be placed on the sludge to reduce the smell. Reis replied that a Biosolids study is being budgeted for 2015 to help staff explore different options. Fortunately, with the removal of over 15 years' worth of sludge just recently, there is time for the study to take place and options to be reviewed. Utility staff wanted the Board to be aware that they may have to haul it off in the interim.

Trustee Donahue noted that some residents he has talked to, in their opinion, feel that the way the roads are being graded may be contributing to drainage issues in Town. He will send an email to Reis with the specifics and she will look into it.

Trustee Lee suggested that Reis to speak to Dallas Masters regarding drainage issues.

Reis will ask Utilities to put together a memo on the sludge concerns.

6. Dawn Baumhover, Community Center Coordinator

Community Center Coordinator's report was included in the packet. Reis noted that the Coordinator also was focused on additional emergency preparedness planning, and added that the Red Cross continues to help quite a bit to beef up supplies and equipment at the center. Reis was pleased to announce that former Police Clerk Lois Ott has been trained and took on the role of shelter manager for this site.

E. BOARD OF TRUSTEES REPORTS

1. Mayor Joe Gierlach

No written Mayor's report for this month. Mayor said that he attended the Denver Metro Chamber of Commerce meeting for their State of the City event to push the construction defects issue. He also discussed a letter that had circulated to elected officials regarding a Governor's Task Force on a statewide water plan for conservation, and although it seems innocent enough, it was really an unfunded mandate looking to preempt local control from small towns, which could cost a fortune. Mayor was looking for a consensus for not signing the letter. Trustee Donahue thought that perhaps it could be done in a way that is attainable for different sizes of cities involved. Trustee Mueller's concern was that the Town's current code does not prevent nor discourage higher consumption rates and thinks the code should be changed to require or encourage the current levels of low per capita consumption. The Mayor

then asked Forberger about the Rate Study and Forberger responded that they are building the model to make sure all the assumptions are correct and should have a draft within the next few weeks, with the final by the end of October.

2. Mayor Pro Tem Peter Fiori

Sustainability Advisory Board (SAB) met on July 31 and spent most of the time talking about the Buds, Burgers, and Beers special event. They used it as guinea pig to make zero waste recommendations for all special events. SAB is planning more community outreach; the last was the showing of Chasing Ice. They are now looking into Muscle Shoals, but don't have a date yet. They have put together a pdf of the scorecard program and will send out to the Board. Cynthia Bakke has submitted her resignation from SAB, so they now have two vacancies to fill.

3. Trustee Randy Lee

Trustee Lee's report was included in the packet. Parks, Recreation and Open Space Advisory Board (PROSAB) is scheduled to meet on the 21st. He spoke on the success of the Saws and Slaws projects, and the incredible visibility difference it has made for emergency vehicles in the Big Springs subdivision. PROSAB has one vacancy on their Board.

In regards to emergency preparedness, Community Center Coordinator Baumhover and Lee have been attending the Inter Mountain Alliance (IMA) meetings and have been struggling with the inability to institute and maintain a neighborhood effort from Nederland. They feel that an advisory board level committee on emergency preparedness should be created that reports to the Board and works with staff. They feel it is just too much for staff to do. Lee wrote a resolution and has received three applications from folks. He will submit the request to the Board shortly.

4. Trustee Charles Wood

The Community Center Foundation Board (CCFB) fundraiser was held last weekend and was a great event. Wood said that Megan Riley has also submitted her resignation in addition to Dale Porter, so the CCFB now has two vacancies. Wood's last report mentioned that CML was conducting a study on the physical health of Colorado communities, and Wood had offered Nederland to be included.

5. Trustee Kevin Mueller

Downtown Development Authority (DDA) meets tomorrow night and will discuss peddlers and street vendors' code. They are starting to score different projects on the DDA list in regards to Transportation Improvement Projects (TIP) funding.

6. Trustee Topher Donahue

Donahue was not able to make it to the last Planning Commission (PC) meeting.

Do to the large audience present at the meeting, Reis provided a brief background on all advisory boards to encourage potential applicants. Mayor Pro Tem Fiori commented on the Nederland Planning Process and the purpose of it.

F. PUBLIC COMMENT OF NON-AGENDA ITEMS

Barb Hardt, of greater Nederland wanted to thank the Board for their support for the Sandwiches and Socks program. The last one of the summer is this Thursday at noon at Chipeta Park.

G. INFORMATIONAL ITEMS

1. Quarterly update on Code Enforcement program.

Reis introduced the item. The Second Quarter report from Frank Goodard, Code Enforcement officer, was included in the packet. Goodard was present to go over his report and take questions. He described his process and success with the program. His final report on the Pilot Program will be provided in October, and the Board will discuss this program going forward during their budget sessions in October.

Trustee Donahue asked about the process of questionable wiring for grow operations in homes. Goodard replied that it is complaint driven, usually by neighbors, and Reis added that staff and the Planning Commission are already working on a roll out program to educate folks and to explain the licensing process.

Trustee Wood asked what were the general reactions from residents when they get notified of a violation, and Goodard replied it was a mix. He said that the majority of people are seeing the clean-up progress and are happy with it.

Trustee Mueller asked for a breakdown of the 36 cases that Goodard stated in his report. Mueller questioned why inspections can't take place now on unlicensed grows in residential areas to verify and document that grows are safe and are not destroying the homes, and Reis iterated that a process needs to be in place prior to enforcement and that people have a right to their privacy. Mayor Pro Tem Fiori suggested that incentives will have to be created to make it easy for folks to become licensed.

Goodard introduced James Courtney, as another Code Enforcement officer for Nederland.

2. Quarterly Building Code update.

Chad Johnson, Building Official, was present to answer any questions. His Second Quarter Activity Report was included in the packet.

The Mayor called a brief recess, which reconvened at 8:18 PM.

H. ACTION ITEMS

Mayor changed the order of the action items to have the request for funding for 4th of July fireworks go first.

1. Consideration of a request for funding for 4th of July fireworks for 2015.

Reis introduced the item. A Request to be Placed on Agenda was received from Barb Hardt, of Peak to Peak Healthy Communities project, to request \$5,000 in funding from the Town in order to put on a fireworks display, along with a full day celebration, in 2015. Hardt was available to answer questions. She said it was a huge loss to local businesses and the community not to hold the fireworks in Town. She is meeting with the DDA tomorrow night to request funding from them as well.

Mayor Pro Tem Fiori noted that concussion bombs serve no purpose other than causing distress to pets and wildlife and suggested not having them.

Trustee Lee noted that Peak to Peak Healthy Communities is not registered as a charitable organization with the Secretary of State in order to legally accept donations. Hardt said she would take care of that.

Deb D'Andrea, of greater Nederland, spoke to many of the local businesses and they were all supportive of having the fireworks return. She encouraged the Board to bring back the 4th of July.

Bob Bentz, of Nederland, wanted to add his support for the fireworks. He said he missed not having them in Town and thought it was a positive event for the Town.

Alex Armani-Munn, staff intern, said he organized the 4th of July event this year and said that he cannot recommend continuing that event without fireworks, and he is very amenable to help out.

Joy Bishop, of greater Nederland, said there was a lot of personal fireworks going off in her neighborhood off of Ridge Road, and would rather see them be conducted in an organized manner.

Susan ?, of greater Nederland, said she had a history of coming up to Nederland for the fireworks, had been on the fundraising committee before, and is the manager for First Street Pub and Grill, where the 4th of July would be their biggest day of the year. She said it is an important community event.

The Board discussed the proposal. Trustee Mueller wanted to note that the Board was never against fireworks, it happened to be a drought year in which the State and the County banned fireworks, no one had stepped up to take it on, and with another drought year, the Town had tried to hold a community event instead.

Trustee Lee cited many concerns not to have them such as: fireworks contain heavy metals that end up in the City of Boulder's water supply, danger of wildfires gets worse each year, concussion bombs cause distress to toddlers and animals, 12 minutes of entertainment for \$15,000 with so many critical Town needs, and he said that there were six white Pelicans on the reservoir years ago, took off on the 4th of July and haven't been seen since.

Motion to approve \$5,000 for 4th of July fireworks in 2015 was made by Mayor Pro Tem Fiori, seconded by Trustee Mueller, and passed by a vote of 5-1, with Trustee Lee opposed.

2. Consideration of Special Event Permit for Buds, Burgers & Beers.

Reis introduced the item. This application came before the Board on July 1, at which time the Board directed the application go through the Nederland Planning Process (NPP). The applicant did so and the results were: the DDA and SAB in support of the event with recommendations, and the Planning Commission and PROSAB in denial of the event. The applicant Allan Wright was available to answer questions.

Mayor opened the meeting up to public comment.

Jerry Rippy, of greater Nederland, has been a Drug and Alcohol Counselor for 32 years, and works at Boulder Community Hospital. He represents the Reducing Substance Abuse Coalition and Teens Inc. The coalition had prepared a formal letter, which was handed out on the dais.

Rippy said he is against this proposal and feels it is celebrating drugs and alcohol and setting a bad example that they are to be celebrated. He encouraged the Board to consider the effect on children and wondered if it was bad for wildlife and pets would the Board then not support it.

Julie Gustafson, of Nederland, voiced her concerns as a mom of two children growing up in Nederland. She said she is concerned for their future. She said she has had the opportunity to work with the Town's youth this summer and noticed the prevalence of marijuana used illegally by kids, and they are not even trying to hide it, which she said she believes is a reflection of the community's perspective on marijuana. She said this event is not in the best interests of families.

Theresa Bradley, of Nederland, urged the Board to vote against it, and to set the precedence that events that focus on inebriation should not be near any school. She said she felt the Town already has a reputation of embracing a drug culture and noted that as a parent of a 12-year old, she has overheard conversations from her daughter's peers regarding marijuana and wanting to leave the school because of the problem. She said she is speaking as a mom and a resident of this neighborhood. Bradley said she has never asked this before, but requested the Board to please stop these types of events; she said she felt there were enough of them now. She went on to say that she hoped the Board would put the impact to children first as they make their decisions.

Marylou Harrison, of greater Nederland, agreed that it was great that the organizers are professionals, yet they don't live here, she said we do, and that was important to keep in mind. She said she has been here since 1991 and has volunteered on numerous boards and organizations in Town, and the last two years she has served on the After Prom Committee, which raised almost \$10,000 to help kids choose safe and fun alternatives over dangerous ones. She noted that the Town supports this committee and she appreciates the donations, yet was confused as to how the Town could support safe and healthy choices and also this event, as it seems to send a contradictory message. She is also a member of the Peak to Peak Prevention Coalition. She said the Daily Camera newspaper refers to Nederland as Pot Town, USA. She asked the Board to deny this event, and that we owe the kids something better.

Susan Davis Churches, of Nederland, said she has been the secretary to the DDA, owns properties, volunteers all over Town and even wearing all of those hats still says no to supporting this application. She is a parent of two teens, and advised the parents of younger children to just wait for the impact of drugs and these decisions. She encouraged the Board to do the responsible thing and deny, especially on public land.

Adam Fels, of greater Nederland and the new Principal of the Middle/High School, said he has been involved in the Town for many years. Speaking as a school principal and as a citizen, he said he understands the need for economic development and branding an image, and he said he welcomes the opportunity to work together with the Town over the coming years in doing so, but he finds no way he could support this event and urged the Board to reconsider and deny this application. Fels said that consumption events are sending the wrong message both economically and as a community. He said this event makes him nervous as a school principal and makes it harder for him and his teachers to do their jobs.

Stephen LeFaiver, of Nederland and Executive Director of Teens, Inc., said that Teens, Inc. is not in support of this at all, and they will not allow use of their building or parking lot area for this event. He reminded the Board that in 2010 a similar festival was introduced, based on

education, and the Town denied it. He cited some statistics from the July 21 Quinnipiac University polls, which he said showed that it is really a misconception that the voters who voted to legalize are actually partaking. He quoted from a Denver Post article that the rise in homeless youth is attributed to legalized marijuana. He said this event would be against all Teens, Inc.'s initiatives, which the Town supports. He ended by noting that all three principals of the Nederland schools are here tonight to speak against this event.

Jeff Ochsner, of Nederland, Board member of Teens, Inc., and parent of two teens, is opposed to the event and DDA's recommendations. He asked for the Board to carefully weigh the impact of approving this to the community and kids. He noted that the City of Boulder said no to this proposal. He said this event would be right next to the skate park and Chinook High school for at-risk youths and that this event would be in direct opposition to the Teen Center and Peak to Peak Prevention Coalition values. Philosophically, he said, approving this would send a conflicting message to our youth, as they experience consequences for marijuana use, yet it would be ok for parents and those 21 and older to celebrate it.

Marnie Copeland, of greater Nederland, Founder and Director of the Peak to Peak Prevention Coalition, Board member of Teens Inc., and former member of the Mayor's Marijuana Task Force, said this event goes against everything the Coalition stands for. Copeland said they receive funding from the Caring for Colorado foundation, which provides funds to assist with behavioral health to create healthy communities. She said they're up for another five-year grant and seeing approval of this event will not help their data or the outcome. She said she had worked for 17 years on the treatment side and shared a story of a youth who was in treatment over the summer, and when asked about marijuana, told Copeland that she couldn't hang out with friends who used marijuana, because that would lead her to want to do other drugs, making the point that marijuana is not as innocent as some may believe.

Bob Bentz, of Nederland, is against the event and agrees with everyone else that it would create a negative impact.

Katrina Harms, of greater Nederland and DDA Chairperson, explained the reasons for the DDA's recommendation of approval as these public spaces are venues for special events such as this, that special events create a boost in the economy for the small window of opportunity local businesses have, and that these event organizers were professionals and willing to abide by Town regulations, which would help set the bar higher for event organizers.

Jeff Miller, of Nederland and the Elementary School Principal, supports the Peak to Peak Prevention Coalition, which advocates making sure our kids are hopeful, engaged and their wellbeing is intact. He said our kids watch us and urged the Board to deny this application. He said the biggest lesson we could teach the kids is to keep open dialogue and have this type of open forum.

Kate Crain, of Nederland, said she understands the marketing aspect of this event, but as a mom hopes the Board won't approve it. She has five children and marijuana is one of the reasons why they are moving, they don't feel they need to be around this. She urged the Board not to perpetuate the reputation that Nederland already has.

Tracy Brewer, of greater Nederland, supports everything the principals and residents have said.

Jilene Norman, of greater Nederland, said she agrees with all that has been said and urged denial of the event.

The Board then discussed amongst themselves. Trustee Wood was not in favor for the reasons stated by public comment.

Mayor Pro Tem Fiori was in support, yet would vote against it due to the public comment. He thought denial of the application was a wasted opportunity for education. He stated it was hypocritical to see the WineFest sign on the Community Center. Fiori said he was disappointed about the approach on drugs and asked the public for a new approach. He said he thought the only answer to drug abuse is understanding and education.

Trustee Donahue said he talked to a lot of people in the community about this subject, and they were 100% against it, but then as he posed the question about making it an educational event, such as responsible consumption, local and sustainable brewing, and local and grass-fed beef, they all had changed their perspective. He agreed it was super hypocritical to have a marijuana club and store, but not approve this application and agreed that the approach to drugs needs to change. He said he would vote yes, if it was an educational marijuana festival and he thought this promoter would be perfect for it, but due to the public input tonight, he would vote no.

Motion to extend the meeting to 10:30 PM was made by Trustee Lee, seconded by Trustee Donahue and passed.

Trustee Lee also agreed to the hypocrisy of accepting alcohol, but not marijuana, and suggested that Town Government and local non-profit organizations should reconsider holding events at bars and featuring alcohol at events. He noted that the division of the advisory boards certainly shows a division in our community, and suggested that it would be a mistake to approve an event that is so controversial. Lee thanked the public for their input. He said this type of festival, being focused upon consumption of intoxication substances, is fundamentally irresponsible and inappropriate, and felt that the Town should tolerate marijuana since it was legalized, but it doesn't have to embrace it, as this event would do.

Trustee Mueller wanted to clarify the DDA's recommendation to promote this as a family event. He said that while at the DDA meeting he mentioned he would feel uncomfortable approving a non-family event. He also felt this promoter was extremely professional, but in reality the community has spoken. He will not be voting for it. He said he also feels this is a lost opportunity for education.

Motion to deny the Buds, Burgers & Beers Special Event was made by Mayor Pro Tem Fiori, seconded by Trustee Lee and approved unanimously.

3. Consideration of Ordinance 732 to amend N.M.C Chapter 2 related to Planning Commission membership.

Reis introduced the item. There is a need to expand the Planning Commission by one member for a total of eight members, in order to allow seven full voting members, and reserve the Board liaison to vote at the Board of Trustees meeting as the final approval. Reis explained how the quasi-judicial review process works. Reis said the Town Attorney advised this.

There was no public comment.

Trustee Mueller, having been the Board liaison to the Planning Commission for many years, understands the need for this and agreed it was the right way to handle it.

Motion to approve Ordinance 732 to amend N.M.C Chapter 2 related to Planning Commission membership was made by Trustee Wood, seconded by Trustee Donahue, and passed unanimously.

4. Consideration of Ordinance 733 to amend N.M.C Chapter 7 related to Inoperable Vehicles.

Reis introduced the item. At the July 1 Board meeting, Code Enforcement Officer Frank Goodard noted some conflicts in this section of Code. The Board then directed staff to adjust the definition of inoperable vehicles to clarify regulations. The draft ordinance contained three different options.

Susan Davis Churches, of Nederland, claimed that in the 15 years she has lived in Town, she has had to view her neighbor's unlicensed, inoperable vehicle the whole time, it has never moved.

Motion to extend the meeting to 11:00 PM was made by Mayor Gierlach, seconded by Trustee Wood, and passed by a vote of 5-1, with Trustee Lee opposed.

The Board went through the options and ultimately agreed on option #1, which allowed for one inoperable vehicle indefinitely. They discussed having any more than one being enclosed in a garage.

Motion to approve Ordinance 733 to amend N.M.C Chapter 7 related to Inoperable Vehicles, with an amendment that more than two inoperable vehicles should be enclosed in a garage, was made by Trustee Donahue, seconded by Trustee Lee, and passed by a vote of 5-1, with Mayor Pro Tem Fiori opposed.

I. DISCUSSION ITEMS

Mayor Pro Tem Fiori brought up Janette Taylor's email in regards to restructuring the Business License fees based on the different types of businesses, such as a home occupation.

Sue Davis Churches, of Nederland, said the fee is usually determined by the number of employees, not how much you make.

Mayor Gierlach said they could discuss this further as part of the budget process and directed staff to come up with a micro business definition, as well as the definition of a cottage industry.

J. OTHER BUSINESS

K. ADJOURNMENT

Motion to adjourn was made by Mayor Gierlach, seconded by Trustee Lee, and approved by unanimous voice vote. The meeting was adjourned at 10:44 PM.

Approved by the Board of Trustees.

ATTEST:


Joe Gierlach, Mayor


Michele Martin, Town Clerk

