



**TOWN OF NEDERLAND
BOARD OF TRUSTEES
REGULAR BUSINESS MEETING**

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

September 16, 2014, 7:00 P.M.

MINUTES

A. CALL TO ORDER – 7:00 PM

Meeting convened at 7:04 p.m.

B. ROLL CALL

Present: Mayor Joe Gierlach, Trustees Randy Lee, Kevin Mueller, Kristopher Larsen, Topher Donahue, and Charles Wood.

Absent: Mayor Pro Tem Fiori

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

C. CONSENT AGENDA

- Approval of September 16, 2014 Accounts Payable, Schedule A.
- Approval of September 16, 2014 Accounts Payable, Schedule B.
- Approval of September 2, 2014 Regular Meeting Minutes.
- Approval of Agreement for Fitness Instructor Services for Roy Cohen.

Motion to approve the Consent Agenda including Accounts Payable, Schedule A, the regular meeting minutes from September 2, 2014, and the Agreement for Fitness Instructor Services for Roy Cohen was made by Trustee Larsen, seconded by Trustee Lee and passed unanimously.

Motion to approve the Consent Agenda for Accounts Payable, Schedule B was made by Trustee Larsen, seconded by Trustee Wood and passed by a vote of 5-1, with Trustee Lee abstaining.

D. STAFF REPORTS

1. Alisha Reis, Town Administrator
2. Michele Martin, Town Clerk
3. Eva Forberger, Town Treasurer

4. Jason Morrison, Public Works Manager
5. Paul Carrill, Town Marshal
6. Dawn Baumhover, Community Center Coordinator

All staff reports were included in the packet. Reis announced that he Town has been recognized by the Colorado Chapter of the American Planning Association with an honor award for sustainability and environmental planning related to the 2013 Comprehensive Plan update. The Town will be recognized at an award ceremony in Crested Butte on October 2, and is now eligible for a national award.

Reis also announced that Town Clerk Michele Martin will be leaving her position on September 26 to pursue an employment opportunity with the City of Black Hawk. Reis acknowledged Martin's exemplary job performance and thanked her for her service. Reis informed the board that police officer Chuck Geiger would also be ending his employment with the Town on September 26 to pursue a job with the Boulder County Sheriff's Department.

E. BOARD OF TRUSTEE REPORTS

1. Mayor Joe Gierlach

Mayor Gierlach's report will be published in the Mountain Ear next week. Mayor Gierlach spent much of the previous week in Denver meetings with other Mayors from the Metro Mayor's Caucus.

2. Trustees Charles Wood

Trustee Wood's report was included in the packet. Wood recently attended a Colorado Association of Ski Towns meeting in Durango. Wood indicated that the local government in Durango faces many similar issues to Nederland such as parking and traffic congestion. Wood also discussed the success Durango has had in engaging residents through its 'Virtual City Hall' and youth outreach programs.

3. Trustee Randy Lee

Trustee Lee's report was included in the packet, and he had nothing else to add. Mayor Gierlach commented on the success of Saws and Slaws this season, noting that 64 volunteers attended the most recent event on Summer Road.

4. Trustee Larsen

The Board of Zoning Adjustment (BZA) met recently to review a minor variance. Larsen announced that the BZA will be meeting on October 9 to discuss building code updates. Trustee Larsen will be attending a Denver Regional Council of Governments (DRCOG) on Wednesday night.

5. Trustee Donahue

Trustee Donahue talked about the Board's goal setting process. He said he spoke to some Board members individually and they had agreed to request this topic be put on as a future agenda item. He said the straw that broke the camel's back for him was the mismatching of budget funds to the items. He said the few Board members he spoke to felt the current process was counterproductive. It was agreed that at the end of the meeting this could be scheduled as a work session.

6. Trustee Mueller

The Nederland Downtown Development Authority (NDDA) will be meeting on Wednesday. The NDDA will hear presentations on a proposed Downtown Entertainment District and back-in parking regulations. They will also be briefed on the Town's DRCOG Transportation Improvements Program (TIP) grant application and the Community Center Site Plan. The NDDA will also hear parking recommendations from Town Intern Alexander Armani-Munn and be discussing public outreach efforts for its Master Plan Update.

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

There was no public comment.

G. INFORMATIONAL ITEMS

- **Boulder County presentation on November ballot issues.**

Boulder County Commissioner Cindy Domenico and Boulder County Sherriff Joe Pelle were present to discuss the Issues. Reis added that draft support resolutions were prepared, if desired. Commissioner Domenico handed out some statistics and briefly introduced the Ballot Issues.

Sherriff Pelle went into detail on Issue 1A approval of a County-wide flood recovery sales and use tax. Pelle informed the Board that the County estimates the total cost of flood recovery between the years 2013 and 2017 will be \$217 million with \$161 million available in reimbursements, leaving a \$56 million gap in funding. Pelle stated that the tax proposed by Issue 1A is a temporary, five year measure. The .185% sales tax would account for less than two cents on a ten dollar purchase and is expected to raise as much as \$49 million in revenue.

Amy Hardy, Mountain Resource Coordinator for the Foothills United Way, was present to speak on Issue 1B for a Human Services Safety Net (HSSN) Mill Levy extension. Hardy commented that this issue strikes close to home as many mountain residents benefit from HSSN programs. Hardy personally sees the impact of HSSN funding, specifically in covering the costs for Boulder County Housing and Human Services case managers to travel to Nederland to serve local residents. Hardy indicated that HSSN funding also supports subsidized heating through the 'Heating Plus' program, several Nederland preschools through the Childcare Assistance Program (CCAP), and the Disaster Assistance Center that was setup in Nederland following the September 2013 flood. Another program funded through HSSN is the Emergency Family Assistance Association (EFAA). Money funneled through EFAA is used to assist residents in paying for mortgage, rent, utilities, and basic needs. EFAA dollars also support the Nederland Food Pantry. Hardy informed the board that the Nederland Food Pantry served 150 residents per month prior to the September 2013 flooding and over 400 residents per month immediately after. According to Hardy, the Nederland Food Pantry continues to serve nearly 350 residents per month, which would not be possible without EFAA support.

Mayor Gierlach expressed his strong support for both ballot initiatives, stating that bringing more services to Nederland and making services more accessible to mountain residents has been a goal of the Town's for some time. Mayor Gierlach acknowledged that HSSN funding allows people to access services without travelling to Boulder.

Motion to move this informational item to an action item in order to approve resolutions of support, was made by Trustee Mueller, seconded by Trustee Larsen and approved unanimously.

There was no public comment.

Motion to approve Resolution 2014-20 in support of Boulder County Ballot Issue 1A for a County-wide flood recovery sales and use tax and Resolution 2014-21 in support of Boulder County Ballot Issue 1B for a Human Services safety net Mill Levy extension, was made by Trustee Larsen, seconded by Trustee Lee and approved unanimously.

Following approval of the Resolutions, Commissioner Domenico and Sherriff Pelle presented the Board with commemorative coins to recognize their response efforts following the September 2013 flood.

- **Report on Town water rights and augmentation.**

Reis introduced Aaron Ladd, a water Attorney with Boulder-based Vranesh and Raisch. Ladd provided a report summary of the Town's rights and augmentation plan, which were included in the packet. Vranesh and Raisch have represented the Town since the 1970s. Ladd commended the Town on its water rights planning in the past, and said that the Town is able to meet its needs while maintaining a surplus of water that can support future growth.

In 2013, the Town used 18.2 acre feet of its available 39.6 acre feet, or 45 percent of its total water portfolio. This left the Town with 21.4 acre feet of unused water. Ladd indicated that this surplus allows the Town to develop additional water uses in its augmentation plan.

Ladd stated that the Town's minimization of water used for outdoor irrigation has contributed significantly to its success in managing water use. Ladd explained that allowing additional outdoor irrigation could rapidly deplete the Town's surplus, indicating that 17 acres of additional outdoor irrigation would deplete the Town's surplus.

The Board had several questions, which Ladd answered. The Board discussed several related points, including rain collection, grey water and other considerations.

The Mayor called a brief recess, after which the meeting reconvened at 8:45 PM.

H. ACTION ITEMS

1. **Consideration of appointment of Timmy Duggan, 717 Highway 119, to Planning Commission (PC).**

Martin introduced the item. A vacancy has been left by PC member Lisa Mayhew who had recently resigned. Timmy Duggan was present to introduce himself and provide his background. He said he is honored to be considered for the position. The PC had met and unanimously recommended Duggan for the appointment.

There was no public comment.

Trustee Mueller asked if Duggan had an opportunity to review the recently updated Comprehensive Plan. Duggan replied he had not.

Motion to appoint Timmy Duggan to the Planning Commission, with term expiring June 1, 2018 was made by Trustee Lee, seconded by Trustee Wood, and passed unanimously.

2. **Consideration of contract award for On-call Engineering services.**

Reis introduced the item. The Town recently put out a request for qualifications (RFQ) seeking on-call engineering services. Reis said the Town received submittals from nine firms and chose

four to meet with. Trustee Wood, Utilities Supervisor Chris Pelletier, and former on-staff Civil Engineer/Project Engineer Mark Weritz helped to form the review committee. Following interviews with the finalists, the Town selected two firms that exhibited the capacity to serve the Town's needs while also reflecting the Town's values. The proposed firms are JVA Engineering of Boulder and RG & Associates of Wheat Ridge.

Reis explained to the Board that the decision to recommend two firms was based on the extensive breadth of engineering work the Town requires and the varying specialties each firm offers.

Trustee Mueller asked Reis if the Town was still planning on developing a best practices manual for new developers. Reis indicated that specs and standards for infrastructure development are currently under review and forthcoming.

Kevin Tone of JVA Engineering said his firm has worked with the Town on several projects over the last three years including the Master Infrastructure Plan (MIP). JVA's work on the MIP has provided the firm with an understanding of the Town's infrastructure needs. JVA looks forward to assisting the Town in any way possible and working alongside RG & Associates.

Rick Goncalves of RG & Associates said his firm has extensive experience working in small mountain towns and understands the culture and needs of small communities. RG & Associates looks forward to working alongside JVA and believes that together the two firms can meet the needs of the Nederland community.

Wendy Williams, of Nederland, asked if on-call engineering was an item in the Town's budget or if the costs for such services would be passed onto individual developers through increased permitting fees. Reis responded that much of the on-call engineering work will focus on public projects that are contained in the Town's MIP and subject to annual budget allocations. Reis then explained that there will be some additional site review for individual developers, but that those costs are largely accounted for in existing land use and permitting fees.

Trustee Mueller expressed his approval of both firms and indicated that he would like to see the Town continue to review the services contained in the individual scopes of work for each firm.

Trustee Larsen asked how often the contracts would be reviewed. Reis answered that the contracts would be reviewed annually, as with all Town contracts.

Mayor Gierlach asked what the term would be for the proposed contracts. Town Attorney Beery indicated that the terms of the contract are open for negotiation, but did suggest terms of 3-5 years to provide some certainty. Mayor Gierlach expressed an interest in setting contract terms that correspond to the Town's election cycle.

Motion to award contracts to JVA Engineering and RG & Associates for on-call engineering services, was made by Trustee Wood, seconded by Trustee Larsen and approved unanimously.

3. Consideration of a Special Review Use (SRU) for multi-family unit at 439 W. 3rd Street for Wendy Williams.

Reis introduced the item explaining that this request is for a duplex (a two unit, multi-family residence), in a neighborhood commercial (NC) zone, which requires a SRU permit. Reis

indicated that the application satisfies the requirements of both the SRU code and the zoning district and that the Planning Commission (PC) approved the application without conditions at their meeting on August 27. Proper noticing for the public hearing was published and posted.

There was no public comment.

Wendy Williams was present to answer any questions.

The Board was in agreement to accept the PC recommendations.

Motion to approve the Special Review Use for a multi-family unit at 439 W. 3rd Street for Wendy Williams was made by Trustee Larsen, seconded by Trustee Wood, and passed unanimously.

4. Consideration of a Special Review Use (SRU) for multi-family unit at 253 W. 3rd Street for Arthur Amacher.

Reis introduced the item, explaining that this application was a little more complex than the last SRU heard. This application is a single family residence that is currently being rented as an unpermitted multi-family unit. Reis informed the Board that the property currently comprises a duplex in the main residence along with a shed on-site that has traditionally been used as a dwelling unit. The Town has documented utility billing for four water and sewer uses on the site, as well as building records for a three bedroom/three bathroom addition to the residence, further indicating a multi-family use. Reis informed the Board that the Planning Commission (PC) heard this application at their August 27 meeting and placed multiple conditions on the approval of the proposed SRU including that no accessory buildings on the property be used as dwellings, the SRU be non-transferrable, no parking associated with the site be on-street, and that the SRU permit be reviewed by the PC and the property inspected by the Town's building department within twelve months. Proper noticing for the public hearing was published and posted.

The applicant, Arthur Amacher, was not in attendance. Reis informed the Board that the applicant had been notified of the meeting.

Trustee Mueller asked if plumbing and electrical wiring in the residence had previously been inspected. Reis indicated that it had not been inspected under the current application, but such an inspection is included in the conditions as set forth by the PC. As such, Reis acknowledged that if the SRU is approved an inspection of the residence will occur to ensure that it meets all standards for a multi-family unit.

Trustee Larsen asked for clarification of the zoning classification and requirements for the site. Reis confirmed that the site is located in a Medium Density Residential zone (MDR). Reis also confirmed that the property does not currently meet zoning density requirements, which require a minimum lot size of 8,000 square feet per dwelling unit. The property is located on a 12,000-square foot lot.

Leonard Kottenstette, of Nederland, handed out aerial photos of the property for a better perspective. He said he has been a neighbor to this property since 1992 and that this house has been used as an illegal multi-family unit since 2002. Kottenstette cited several complaints regarding the property including noise, animals, parking, bonfires, abandoned vehicles, garbage, marijuana cultivation, and too many tenants. He also cited the property's non-compliance with zoning density requirements. Kottenstette encouraged the Board to deny the

SRU permit application based on an improper use of the property and an incompatibility with the neighborhood.

Jana Mantifel, of Nederland, is another neighbor to the property since 2004 and said this house is bringing down the quality of the neighborhood, citing complaints of garbage and odor from previous use as marijuana cultivation. Mantifel also urged the Board to deny the SRU permit application.

Trustee Mueller commented that it would be appropriate to approve the residence as a multi-family unit in order to improve the property and stabilize the property value. Mueller suggested that allowing the unit to remain a multi-family residence could serve as an incentive to the owner to maintain the property.

Trustee Donahue suggested that many of the issues at the property would likely remain if the SRU permit application is denied. Donahue added that a well-managed duplex would be preferable to a four-unit property in poor condition. He also expressed support for a non-transferrable SRU to allow for future review by the board.

Trustee Larsen commented that the SRU permit application violates density requirements in the zoning code and could set a precedent, if approved. Larsen acknowledged that the application does represent a solution for Nederland's housing needs by providing high density housing through redevelopment and expressed support for the recommendations of the PC, but was disappointed that the applicant was not present to support the application.

Trustee Lee expressed that he was not in support of the application based on misuse of the property and the violation of lot size requirements.

Trustee Wood acknowledged that a duplex on the property would be an improvement over four units; however, the lot and the residence are designed for a single family and allowing a multi-family unit would contradict the lot's intended use. For these reasons, Trustee Wood said he is inclined to deny the application.

Motion to deny the Special Review Use for a multi-family unit at 253 W. 3rd Street for Arthur Amacher was made by Trustee Lee, seconded by Trustee Wood, and failed with a tie vote of 3-3, with Mayor Gierlach, and Trustees Donahue and Mueller opposed.

Motion to extend the meeting to 10:30 PM was made by Trustee Lee, seconded by Trustee Wood, and failed with a tie vote of 3-3, with Trustees Donahue, Larsen and Mueller opposed.

Motion to adjourn the meeting was made by Trustee Mueller, seconded by Trustee Donahue and failed by a vote of 1-5, with Trustee Donahue in favor of.

Motion to extend the meeting to 10:30 PM was made by Trustee Wood, seconded by Mayor Gierlach, and passed with a vote of 4-2, with Trustees Larsen and Mueller opposed.

Trustee Donahue asked what would happen if the SRU permit application was denied. Reis indicated that the residence would be required to return to single-family use. The issue would be referred to code enforcement and a cease and desist letter would be issued to the property owner. A court summons may also be issued if compliance does not occur.

Mayor Gierlach commented that the PC does a great job and that he does not take overriding their recommendations lightly. As such, he supports the PC's recommendation to approve the application, striking the condition for a non-transferrable SRU, item 6A.

Trustee Lee said he felt that the multiple conditions required by the PC signify that they had some difficulty in approving this as well. Lee added that a lack of support from neighbors and the social impacts of a high-density dwelling in the neighborhood made him inclined to deny the application.

Trustee Wood reiterated that the Board needs to resolve the issue of unpermitted rentals on a large-scale and not by piecemeal reviews.

Motion to table the item until the applicant was present was made by Trustee Larsen. It was never seconded and Larsen withdrew the motion.

Motion to approve the Special Review Use for a multi-family unit at 253 W. 3rd Street for Arthur Amacher, with the elimination of Planning Commission recommendation item 6A, was made by Trustee Lee, seconded by Trustee Wood, and denied by a vote of 2-4, with Mayor Gierlach, and Trustee Donahue in favor.

Motion to approve the Special Review Use for a multi-family unit at 253 W. 3rd Street for Arthur Amacher as presented was made by Trustee Mueller, seconded by Mayor Gierlach, and failed by a tie vote of 3-3, with Trustees Larsen, Lee and Wood opposed.

The application was denied.

**5. Consideration of request for funding related to the DRCOG 2016-2021
Transportation Improvement Plan (TIP).**

Reis introduced the agenda item, explaining that staff is seeking the Board's approval to submit a grant application to DRCOG for funding of a secondary bridge crossing over Middle Boulder Creek and improvements at the intersection of Lakeview Road and Highway 119. Reis indicated that both projects are included in the MIP. The local match is expected to be around \$175,000 paid from the NDDA debt reauthorization. Reis informed the Board that the projects can be submitted as one application and that the idea of combining the projects in one application was well received in a mandatory training with CDOT and DRCOG representatives. However, the Board may choose to submit the projects on separate applications if they feel it will increase the chances for funding. Projects that are not included in the TIP grant program will be automatically submitted to the Transportation Alternatives Program (TAP) grant program, so the Town will have another opportunity to receive project funding if the TIP applications are denied.

Mayor Gierlach asked to increase the match amount and requested the number of points that can be expected for each scenario: separate application or combined.

Reis informed the Board that the previous 50-point minimum for accepted applications has been eliminated. Still, points are important for competitive purposes. Reis explained that the Town would also be able to leverage things such as engineering fees and environmental reviews in its application.

There was no public comment.

Motion to extend the meeting to 11:00 PM was made by Trustee Mueller, seconded by Trustee Lee, and passed with a vote of 4-2, with Trustees Donahue and Larsen opposed.

Mayor Gierlach asked if the Town could address more issues by incorporating solutions for drainage and traffic in the project applications. Gierlach also asked if the Town was limited to

projects on Lakeview Drive. Reis indicated that there is a storm water project on the west side of Highway 119 included in the project application. Reis also indicated that additional components could be included in the project application.

Trustee Lee indicated that he would like to see a study on a two-lane traffic bridge before committing to a pedestrian only bridge.

Mayor Gierlach commented that a bridge that can accommodate emergency vehicles could also be used on occasions when the Town wants to relieve traffic congestion. Mayor Gierlach added that the bridge's use could be determined in the future, but the Town has to attain the funding first.

Reis informed the Board that the project would not lose points for putting in a traffic bridge, but the project will score higher by accommodating bicyclists and pedestrians. Trustee Donahue commented that a two-lane vehicle bridge may attract backlash from the community.

Motion to request funding related to the DRCOG 2016-2021 TIP with two separate applications with an increase in the request and match amount was made by Trustee Mueller, seconded by Mayor Gierlach and passed unanimously.

I. DISCUSSION ITEMS

J. OTHER BUSINESS

K. ADJOURNMENT

Motion to adjourn was made by Trustee Lee, seconded by Trustee Larsen, and approved by unanimous voice vote. The meeting was adjourned at 10:42 PM.

Approved by the Board of Trustees.

ATTEST:



Joe Gierlach, Mayor



Cynthia Bakke, Deputy Town Clerk

