



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

NEDERLAND COMMUNITY CENTER  
750 Hwy 72 Nederland, CO 80466

April 7, 2015, 7:00 P.M.

**MINUTES**

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**A. CALL TO ORDER**

Meeting convened at 7:02 p.m.

**B. ROLL CALL**

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

Absent: Trustee Kevin Mueller.

Also present: Alisha Reis, Town Administrator; Eva Forberger, Town Treasurer; LauraJane Baur, Town Clerk; Carmen Beery, Town Attorney; and Alex Armani Munn, Town Intern; Chris Pelletier, Interim Public Works Manager, Paul Carrill, Town Marshal.

**C. CONSENT AGENDA**

1. Approval of April 7, 2015 Accounts Payable, Schedule A
2. Approval of April 7, 2015 Accounts Payable, Schedule B
3. Approval of March 17, 2015 Regular Meeting Minutes
4. Consideration of an Intergovernmental Agreement with Boulder County for Sustainability Matching Grant Funds

**Motion to approve the Consent Agenda minus Schedule B and March 17<sup>th</sup> Minutes was made by Mayor Pro Tem Fiori, seconded by Trustee Larsen, and passed by unanimous verbal approval.**

**Motion to approve Schedule B and March 17<sup>th</sup> Minutes was made by Trustee Larsen, seconded by Trustee Wood, and passed by unanimous verbal approval with abstention by Mayor Pro Tem Fiori and Trustee Lee.**

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

Ellen Burnes, of Louisville, CO and the Boulder County Democratic Party, stated that she is speaking as a follow up to a letter that the Democratic Party sent to the Board in

February encouraging outreach and inclusion to gain diversity in the population represented on boards and commissions.

#### **E. INFORMATIONAL ITEMS**

##### **1. Proclamation recognizing Earth Day**

Mayor Gierlach read the Earth Day Proclamation

##### **2. Proclamation recognizing Public Works Manager Jason Morrison for his service to the Town**

Mayor Gierlach read and presented the Proclamation, announcing April 7, 2015 as Jason Morrison Day in Nederland.

##### **3. Recognition of Saws & Slaws organizers for 2015 Wildfire Mitigation Innovation Award**

Reis gave a brief explanation of the award, and Trustee Lee noted that the Saws & Slaws group is in the process of transitioning to non-profit organization status. The actual awards were presented in Reno on March 25<sup>th</sup>.

##### **4. Report from the Peak to Peak Human Services Task Force**

Amy Hardy, Co-Chair of the Peak to Peak Human Services Task Force, presented to the Board, giving highlights of the group's activities and goals as outlined in her report in the packet. Hardy noted that one of the biggest needs right now is for more data and to develop a needs assessment. Hardy indicated that she intends to give such informational updates to the Board on a regular basis and will continue working with the Town Intern, Alex Armani-Munn, to connect with STAR and #NedZero as well as to add/update information on the Town website.

##### **5. Monthly update on the Town Maintenance Shop Project**

Joel Price, JVA, gave a status update presentation on the Town Maintenance Shops Project. Price introduced the new mechanical and electrical engineers for the project; they are Steven Forrester, DMA Engineering, and Anne Stilson-Cope, Corey Engineering. Price reported that they had a kick-off meeting with the new team, and they are still looking towards a goal of net zero. Mayor Pro Tem Fiori asked about the proposed radiant floor heating and how often that area would be used. Chris Pelletier answered that it would have daily use.

Trustee Wood asked how things are going with the Owner Project Requirements (OPRs), to which Reis answered that since the last meeting many of the ideas have been incorporated into the OPR and that it will be a living document throughout the design process. Price noted that he plans to report to the Board often, including at work sessions. Reis queried the Board if they would be available for a work session on May 5<sup>th</sup> at 5:30 p.m.; the Board members agreed that this was a good opportunity. Mayor Pro Tem Fiori asked if, at some point, we could discuss including a site for a community greenhouse.

Mayor Gierlach inquired about the status of the DC power proposal. Eva Forberger reported that she received the feasibility study last week, she has forwarded it to JVA for review, and that information will be presented at the April 21<sup>st</sup> Board meeting. There was some further technical discussion.

#### **F. ACTION ITEMS**

## **1. Consideration of an application for retail marijuana sales at 211 Highway 119**

Mayor Gierlach read a statement to convene and hold a public hearing as the Nederland Local Licensing Authority on an application for a new Retail Marijuana Store Business License, submitted by APEX Industries Inc, d/b/a Harvest House, for the premises located at 211 Highway 119 within the Town of Nederland.

Town Clerk Baur presented the application to the Authority, stating that the application was received in December 2014, was completed by March 2015, and is before the Board tonight per Nederland Municipal Code (NMC) 6-277(3). Baur noted that there is a concurrent application for a retail cultivation license on the same property, in a separate building located behind the retail store premises; that license is not subject to public hearing. The State issued both retail sales and retail cultivation licenses effective, February 4, 2015, conditional upon Nederland Licensing approval. Per NMC, Section 6-279, the necessary requirements of an application have been met. The Police, Fire, and Building officials' concerns are all being addressed through the building permitting/inspection process. As all regulatory requirements have been met, Baur recommended this application for approval, conditional upon all satisfactory final building inspections.

Applicant Stacy Johnson, of Rollinsville, testified that it will be a privilege to obtain this license, and as a member of the community, he appreciates the opportunity to conduct business in Nederland.

Chris Perret, of Nederland, spoke in favor of licensure approval, commenting on the positive sales tax benefit that it will provide to Nederland, but questioned not seeing marijuana sales tax as an item in the Town's budget. Perret noted that he appreciates local people doing local business, and that it is good to have more than one retail outlet.

Mike Monticella, of Nederland, spoke, stating that he agreed with Perret's comments.

Forberger, Town Treasurer, responded to Perret's question regarding the sales tax. She noted that it is not broken out in the Budget Book, but was broken out in the February 2015 Board packet and she will print it out for Perret to pick up at Town Hall.

Johnson spoke again, noting that throughout the building renovation process, he has been using local contractors and plans to hire three to four local people for the new business; he will be contributing to Nederland's economy.

Trustee Wood asked if the zoning was compatible with this use; Reis responded that it is General Commercial (GC) and is compatible. Mayor Pro Tem Fiori spoke to Johnson's character, noting that the previous applicant for a retail marijuana store license sold the local business to a larger, out-of-town company but that Johnson would not do that. Trustee Wood commended Johnson for coming forward and going through the legal licensing process. Trustee Larsen asked about the issues of parking and odor noted in the packet; Reis stated that those considerations are being addressed through the Building Permit review process. Town Marshal Carrill added that those were concerns that were brought forth to him through his contacts with community members, and that he wanted to be sure they were being addressed. Trustee Wood questioned if GC zoning would allow for inspections of the cultivation facility, noting the difficulties the Town has had inspecting illegal cultivation in residentially zoned areas. Town Attorney Carmen Beery responded affirmatively, noting inspection was permitted with reasonable notice.

**Motion to approve the application for a Retail Marijuana Store License at 211 Highway 119 was made by Mayor Pro Tem Fiori, seconded by Trustee Larsen, and passed with a unanimous vote.**

**Mayor Gierlach reconvened the Board at 8:15p.m.**

**2. Consideration of an Ordinance 737 to create a single-use bag fee**

Administrative Intern Alex Armani-Munn introduced the ordinance, highlighting information from the packet and outlining points in the ordinance as well as the Waste Minimization Outreach Plan, also in the packet.

Mayor Pro Tem Fiori requested clarification on why Nederland cannot outlaw the use of plastic bags. Beery stated that State law forbids the prohibition of plastic materials. Beery further clarified that the fees collected can only cover the costs associated with the bag use and cannot be an income stream, as it would then be considered a tax and the Town cannot levy a tax without voter approval.

Mayor Gierlach invited public comment.

Steve Culver, of the Greater Nederland Area and owner of Indian Peaks Ace Hardware, spoke against the ordinance, suggesting that the Town look into ways to make recycling plastic bags easier instead of imposing a fee on the bags.

Dan Ball, of the Greater Nederland Area and owner of B&F Mountain Market, also spoke against the ordinance, explaining that B&F already uses 65% less volume of paper/plastic bags than other comparable stores.

Trustee Donahue commented that he thinks the fee distribution as proposed is backwards and that the amount given to the Town should be capped, with the balance being disbursed to the businesses. Trustee Larsen stated that he doesn't think a 10 cent fee is high enough, and that if there is going to be a fee, it should be higher in order to have an impact. Trustee Lee said he has no problem with the fee but that, before voting on an ordinance, there should be more education and outreach, and that we should be working with the stores on getting them not to offer bags. Mayor Gierlach noted that he would like to see the entire fee go back to the businesses. Trustee Wood observed that everyone seems to agree with the intent of the ordinance, but disagrees with the fee. Wood went on to give some statistics from a CAST (Colorado Association of Ski Towns) survey regarding single use bags in other municipalities.

Mayor Pro Tem Fiori stated that plastic bags are not recyclable in a sustainable manner. Fiori noted that, although he applauds B&F and Ace Hardware for their efforts, the education process has failed and the time for action is now. He reported that the public has been given opportunities to speak at Sustainability Advisory Board meetings that have been posted and that four months ago, the Board instructed Town staff to draw up an ordinance after extensive outreach by the Armani-Munn. Fiori requested it be noted that if the Board votes against this ordinance, they would be voting against a majority of their constituents.

Mayor Gierlach instructed staff to meet with businesses and come up with something that can be implemented. Reis clarified the direction given to staff as to meet with businesses in

the community to create a proposal with fee and non-fee options to meet the ultimate goal of zero single-use bags in this community, and to return to the Board with these ideas.

There was no vote to approve/deny Ordinance 737 to create a single-use bag fee.

### **3. Consideration of a Mutual Aid Agreement with Boulder County re: Police Services**

Paul Carrill, Town Marshal, introduced the item, stating the need to have an agreement in place to protect Police Officers that must go outside of Town limits for enforcement purposes.

Mayor Pro Tem Fiori asked if this had been discussed with CIRSA, the Town's insurer. Beery said that it is an issue of liability and that statutes address mutual aid. Beery added that under true emergencies state law shifts liability to the requesting agency, but in non-emergent or routine back-up calls each agency is responsible for their own staff. Fiori inquired if Carrill had worked with these types of agreements in the past, and Carrill answered affirmatively.

There was no public comment and Board comments were all in support.

**Motion to approve the Mutual Aid Agreement with Boulder County re: Police Services was made by Trustee Larsen, seconded by Trustee Wood, and passed by unanimous vote.**

## **G. DISCUSSION**

### **H. OTHER BUSINESS**

Trustee Donahue voiced concern regarding distracted driving and the use of cell phones within Town limits. There was some discussion regarding current laws. Town Marshal Carrill reported that the department is currently educating students on these issues and that he will also talk with the Judge and work with the Town Attorney regarding traffic code.

## **I. ADJOURNMENT**

**Motion to adjourn was made by Trustee Lee, seconded by Trustee Larsen, and approved by unanimous voice vote. The meeting was adjourned at 10:00 PM.**

Approved by the Board of Trustees.

ATTEST:

  
Joe Gierlach, Mayor

  
Laura Jane Baur, Town Clerk



