



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

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

January 5, 2016, 7:00 P.M.

MINUTES

A. CALL TO ORDER

Meeting convened at 7:04p.m.

B. ROLL CALL

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

Absent: None

Also present: Alisha Reis, Town Administrator; LauraJane Baur, Town Clerk; Chris Pelletier, Public Works Manager, Paul Carrill, Town Marshal; and Carmen Beery, Town Attorney.

C. CONSENT AGENDA

1. Approval of January 5, 2016 Accounts Payable, Schedule A
2. Approval of January 5, 2016 Accounts Payable, Schedule B
3. Approval of December 1, 2015 Regular Meeting Minutes
4. Consideration of Resolution 2016-01 authorizing a mail ballot election on April 5, 2016
5. Consideration of the appointment of Marty Cheshes to the NCCF Board

Motion to approve the Consent Agenda minus the January 5, 2016 Schedule B was made by Trustee Wood, seconded by Mayor Pro Tem Fiori, and passed by unanimous verbal approval.

Mayor Pro Tem Fiori questioned expense items and totals on the Schedule B (IT contracted expenditures). Reis explained that Town Hall had been in need of a new server and that the purchase did not cause a deficit because the funds were shifted from other areas where they were budgeted in 2015 but not spent. There was some discussion regarding other technical issues. Fiori requested explanations on over-budget items within the IT line items, and Reis said that she will provide a report to indicate these expenditures and their source of funding, as well as a year-to-date report on expenditures for the 2015 Budget overall, for the next meeting. The 2015 Budget is scheduled to be closed out by February 2016.

Motion to approve the January 5, 2016 Schedule B made by Trustee Larsen, seconded by Trustee Wood, and passed by a vote of 5 to 1 with Mayor Pro Tem Fiori voting against and abstention by Trustee Lee.

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

Deb Nichols, of Nederland, spoke on the issue of Home Occupations. She had complaints concerning the handling of a code enforcement case regarding her business and the claim of an alleged auto repair business and conduct of her towing business at her home on Navajo Trail. This led to Mayor Pro Tem Fiori voicing his concern over letters being withheld from Board members. Reis noted that the information was withheld from the Board because it involves an active case that was going through its due process, a standard protocol to protect the Board from receiving ex parte communications on active cases or land use applications. Fiori stated that he does not want to be “protected” by having mail held from the Board. In response to questions by the Board, Reis said she would report further on this case and its resolution upon gaining further information from the Municipal Court. She will provide this information in a follow-up report at the Board’s next meeting.

Kathleen Chippi, of Boulder County, had complaints regarding the handling of her business license renewal. She stated that she feels she is being personally harassed by “denial” of her renewal because she did not have a current trade name registered with the Secretary of State. Town Clerk LauraJane Baur stated that she does not deny business licenses on this account but does follow up with businesses to ensure they have the status of “Good Standing” with the Secretary of State before issuing or renewing all business licenses.

E. INFORMATIONAL ITEMS

1. Monthly update on Public Works Center Project

Reis provided the update per the JVA report provided in the packet, noting that the Town is working through ideas to reduce costs and working with DOLA concerning possible further funding assistance. Reis informed the Board of the “worst case scenario” contingency plan to reduce the scope of work to be completed in 2016 with the completion of the balance of work in 2017. She added that the team will have an update for the Board soon.

F. ACTION ITEMS

1. Consideration of Ordinance 739 to amend Zoning and Licensing Codes related to retail marijuana cultivation in residential zoning districts

Reis introduced the item and provided background information regarding the issue. Reis outlined the Board’s options as: 1) Keep the allowance in code and clean up the Home Occupation code to match (Action Item 2), or 2) Eliminate the allowance from code, making the change to the Home Occupation code unnecessary.

There was debate regarding previous Board discussion of the issue. There was also conversation regarding various scenarios and responses to citizen complaints regarding suspected unlicensed cultivations in residential areas. Then, the discussion focused on what the Town has seen so far regarding the issue and possible consequences of this ordinance.

Public Comment:

Lynn James, Helaine Mann, Jim Guertin, Theresa Jordan, Jeannette Smith, Steve Jordan, Dallas Masters, Jessica Fitzner, Kelly Detzel Hess, Marceia Decker, Steven Karowe, Julie Gustafson, Kristi Vendetti, and Ann Keane (all of Nederland) spoke in favor of eliminating the allowance for retail marijuana cultivation in residential areas. Kathleen Chippi, of Boulder County, and Mark Rose, of Nederland, spoke in favor of retaining the allowance. Also speaking for 1 minute were Ken MacFerrin, Ken Winter, May Jerril, and Rich Tillotson.

The consensus of public comment was for the removal of the allowance.

Most Board comments were in support for approval of the ordinance to adjust zoning the use group table to remove the allowance for retail marijuana cultivation in residential areas.

There was some discussion regarding signage, particularly regarding marijuana and alcohol, but it was decided that the discussion should be postponed for another meeting, given a new Supreme Court ruling that may have an impact on the Town's ability to regulate content of signs. Town Attorney Beery said she would provide information about this subject to the Board at a future date. Then there was a conversation about possible amendments to Neighborhood Commercial zoning allowances; it was decided that the Board would ask the Planning Commission to look into the issue.

Motion to approve Ordinance 739 was made by Mayor Gierlach, seconded by Trustee Larsen, and passed by a vote of 5 to 2 with Trustees Lee and Mueller voting against.

2. Consideration of an Ordinance to amend Municipal Code related to home occupations (retail marijuana cultivation)

With the passing of Ordinance 739, this item became unnecessary.

Mayor Gierlach requested a motion to vote to extend the meeting. No motion was obtained.

G. DISCUSSION

1. Discussion of a proposed excise tax on wholesale marijuana (cultivations)

With time short, the Mayor began the discussion with Public Comment.

Stacy Johnson, of Harvest House in Nederland, spoke against a proposed local excise tax, stating that such a tax would hamper his ability to do business in Nederland.

Steve Karowe, of Nederland, spoke in favor of an excise tax on wholesale marijuana cultivation because there are no sales taxes collected on wholesale products.

Motion to extend the meeting was made by Trustee Mueller, seconded by Mayor Pro Tem Fiori and passed by a vote of 5 to 2 with Trustees Donahue and Lee voting against.

Mayor Gierlach called a brief recess, reconvening the meeting at 10:10PM.

Public Comment, continued:

Kathleen Chippi, of Boulder County, spoke against an excise tax saying that she is against any additional taxation of any kind and that she is sick of the cannabis user being penalized.

Board discussion of the matter included issues of legitimate and licensed businesses vs. the black market cultivation and distribution of marijuana, the efforts of the Mayor's Task Force on Retail Marijuana in developing the marijuana policies, possible incentives for environmental responsibility for cultivators, and the possible unfair targeting of one type of business with additional taxation.

H. OTHER BUSINESS

1. Confirm January 12th special event work session

Board consensus was to cancel the scheduled January 12th work session regarding special events.

I. ADJOURNMENT

The meeting was adjourned at 10:30PM.

Approved by the Board of Trustees

ATTEST:



Joe Gierlach, Mayor



Laura Jane Baur, Town Clerk

