



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

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

January 19, 2016, 7:00 P.M.

MINUTES

A. CALL TO ORDER

Meeting convened at 7:02 p.m.

B. ROLL CALL

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

Absent: Mayor Pro Tem Peter Fiori, and Trustee Kevin Mueller

Also present: Alisha Reis, Town Administrator; LauraJane Baur, Town Clerk; Mary Erwin, Town Accountant; Paul Carrill, Town Marshal; and Chris Pelletier, Public Works Manager

C. CONSENT AGENDA

1. Approval of January 19, 2016 Accounts Payable
2. Approval of January 5, 2016 Regular Meeting Minutes
3. Approval of regulatory policies required for flood recovery funding

Motion to approve the Consent Agenda minus the January 5, 2016 minutes was made by Trustee Larsen, seconded by Trustee Donahue, and passed by unanimous approval.

Motion to approve the January 5, 2016 minutes was made by Trustee Donahue, seconded by Trustee Wood, and passed unanimously with abstention by Trustee Lee.

D. STAFF REPORTS

1. **Alisha Reis, Town Administrator**

Reis discussed how she will improve the process of reporting back to the Board on items requested at previous meetings. Mayor Gierlach questioned the code enforcement case procedure for releasing the letter that had been previously held from the Board. This was followed by discussion of follow-up on citizen complaints.

2. LauraJane Baur, Town Clerk

Baur noted no changes or additions to her report as provided in the packet.

3. Mary Erwin, Town Accountant

Erwin noted that she is still working with Jeff Maggard and they are updating their workload status. The financial report through November 2015 will be ready by the end of the week.

Mayor Gierlach inquired about the Erwin's title as Accountant. Reis responded that Erwin is still in the learning process and will be up for appointment by the Board in April, along with other staff renewals. At that point, her title will become Treasurer.

4. Paul Carrill, Town Marshal

In addition to his report, Carrill elaborated on meetings he has had with the residents of Old Town regarding traffic passing through the neighborhood on heavy ski days and during local festivals. Carrill explained a possible solution though the use of additional signage. Trustee Lee inquired about Eldora and traffic plan implementation to which Carrill responded by explaining the process of traffic management for ski traffic from Eldora.

Trustee Donahue asked Carrill about the plan for a School Resource Officer (SRO) at NMSHS and if Nederland could make it a requirement that the SRO be specifically trained for working at the High School level. Carrill responded that, because the Board had previously turned down the opportunity for the SRO grant, this is now a Boulder County initiative so Nederland does not have a say in that, but added that he will bring the Board's concerns to Sheriff Pelle.

Further discussion followed regarding the IGA with Boulder County and the emergency status of cases to cause Nederland Police to go outside of town limits and a suggestion that the Board address the issue by requesting Boulder County improve services in the areas surrounding Nederland. Trustee Lee requested that Carrill provide the Board with statistics of Boulder County assisting in Nederland as well as the statistics that he already provides regarding Nederland assisting in Boulder County.

5. Chris Pelletier, Public Works Manager

In addition to his report in the Packet, Pelletier noted that Public Works is geared up for a productive year.

6. Dawn Baumhover, Community Center Coordinator

Reis presented for Baumhover noting that the 9 Health Fair will be back again this year and that there will be a blood drive at NCC on January 30th from 10AM-2PM and encouraged blood donations at the event.

E. BOARD OF TRUSTEE REPORTS

1. Mayor's Report

The Mayor had no report.

2. Trustees' Reports

Trustee Lee reported that PROSAB had a meeting with Eldora and discussed how they could develop a more cooperative/collaborative relationship. He also noted that there will be an IMA meeting later this week.

Trustee Donahue reported that the ECO Pass group discussed the RTD change in schedule and that RTD indicated that ECO Pass groups are only to deal with ECO Pass, not general scheduling issues. Donahue also reported that the Planning Commission met on affordable housing but that he was not in attendance at that meeting. He asked Reis to add information from that meeting. Reis discussed some upcoming issues in planning with the Commission which will include short term rentals.

Trustee Larsen reported that the Board of Zoning Adjustment had a brief meeting for the reinstatement of officers. Larsen also shared some DRCOG information, including noting Town access to the "Grant Finder" program.

Trustee Wood reported that the NCCF met with their new members, Janette Taylor as Chair and Jen Lavelly as Treasurer. They discussed issues that they plan to be addressing and they will be meeting again in April.

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

Ron Mitchell, of Nederland, discussed the future redevelopment of downtown properties that he owns and informed the Board that he will be giving a presentation at the February 17th DDA meeting. He discussed the Entertainment District idea and said that he hopes it will come back for consideration soon.

Kathleen Chippi, of Boulder County, handed out her comments to the Board; they are attached to these minutes.

Mary Jarril, of Nederland, asked the Board for clarification of the duties of the Town Administrator, she voiced support for Ron Mitchell's proposal, requested a public meeting regarding the Town Administrator, complained about Public Works and the Town Shop, and then requested better sanding in her neighborhood.

G. INFORMATIONAL ITEMS

There were no Informational Items on this Agenda.

H. ACTION ITEMS

1. Consideration of Resolution 2016-02 to affirm Nederland's commitment to inclusivity of all people

Mayor Gierlach introduced this item. There was some discussion regarding racial vs. economic diversity in Nederland. Trustee Lee suggested changes to the wording in the resolution to remove some inapplicable statements. Trustees Wood and Donahue agreed that some of the statements included in the resolution pertain to Boulder, where the resolution language originated, but not to Nederland.

Motion to approve Resolution 2016-02 with alterations as noted was made by Trustee Larsen, seconded by Trustee Lee, and passed by unanimous approval.

2. Proclamation regarding One Action 2016 project

Mayor Gierlach read the Proclamation.

Public Comment:

Kathleen Chippi, of Boulder County, spoke in support of the Proclamation.

The Mayor took a straw poll, with the Board showing unanimous support of the Proclamation.

3. Consideration of Resolution 2016-03 to refer to the April 2016 ballot a question concerning an exemption from the revenue and expenditure limitations imposed by State law and TABOR

Reis introduced the information presented in the packet and gave a brief history of TABOR. Reis noted the de-Brucing would not affect any other TABOR protections, just the revenue/expense limitations. Trustee Larsen noted that this action would eliminate the need for questions as we had on the November 2015 ballot for large grant-supported projects like the Town Shop.

Public Comment:

Kathleen Chippi, of Boulder County, spoke against "dismantling" TABOR.

Board Comments were in favor of putting this question to the voters, with Trustee Larsen noting flawed math inherent in TABOR.

Motion to approve Resolution 2016-03 was made by Trustee Larsen, seconded by Trustee Lee, and passed by unanimous approval.

4. Consideration of a supplemental funding request to DOLA for the Town Shop project

Reis introduced the item with information showing the adjusted Town Shop Project Budget as presented in the packet. She explained that she has spoken with a DOLA representative and that this project would be well regarded due to the nature of the project.

There was discussion regarding items that could be removed from the project or moved until 2017. Mayor Gierlach questioned the tightness of the financing and said the Town could expect future change orders as a result. He stated that he is against obtaining the additional funding from DOLA, given that it requires a one-to-one match from the Town. Joel Price, project engineer from JVA, discussed the bidding numbers and how they renegotiated to get them lowered. Reis added that we would be using capital funds already identified in the Town budget and that there will be no debt taken on to support the project. There was continued discussion of deferred items and alternate funding numbers. Trustee Donahue stated that he is not comfortable with the affordability of this proposal and suggested a reduction/deferral of scope.

Reis and Price agreed to return to the Board, at the February 2nd meeting, with some adjustments for the Board's consideration. There was no vote taken on this item.

J. DISCUSSION ITEMS

1. Introduction of a Resolution to refer to the April 2016 ballot a question to authorize debt for the Downtown Development Authority

Katrina Harms, DDA Chair, and Mandy Kneer, DDA Treasurer, were in attendance to answer any Board questions. Reis introduced the item as in the packet. Harms noted that this information is being introduced to the Board tonight because it will be coming before them at the February 2nd meeting for a vote, and the DDA Board is to consider voting on the proposal at their meeting of Jan. 20.

Public Comment:

Ron Mitchell, of Nederland, addressed his ideas with some of the projects listed along with some of his development ideas. Mitchell encouraged the Board to vote in favor of the resolution.

Mayor Gierlach asked what the DDA's plan is for getting this to pass a vote of their constituents. Harms said that she will talk to business owners and that the DDA will be developing an outreach plan in support of the ballot question.

K. OTHER BUSINESS

L. ADJOURNMENT

Motion to adjourn was made by Trustee Lee, seconded by Trustee Larsen, and approved by unanimous voice vote. The meeting was adjourned at 9:50 PM.

Approved by the Board of Trustees

ATTEST:


Laura Jane Baur, Town Clerk


Joe Gierlach, Mayor



Public Comment

1-19-16: At the last BoT meeting Alisha Reis said she had been contacting residents about coming into compliance with town code, specifically nuisance/smell issues centered around cannabis. I am a cannabis legal analyst and have 25 years' experience in this field.

There is not nor has there been an "unlawful smell" ordinance in the Town of Nederland. The only 'smell' law that exists in Nederland applies to A64 businesses and was Aug 2013. *Public nuisance from marijuana establishments*, as defined in Section 6-273 (Business Licenses and Regulations) of this Code, means:

- a. Any smell of marijuana detected at the property line.
- b. Any debris left outside the establishment which contains significant amounts of THC and is not properly composted.
- c. Any concentrated chemicals, detergents, fertilizers, pesticides or marijuana products introduced into the sewer system.
- d. Any concentrated chemicals, detergents, fertilizers, pesticides or marijuana products deposited outside the establishment without proper dilution.
- e. Any high intensity light used for growing plants visible to the general public from dusk to dawn.
- f. Any view of marijuana plants from the property line or public right-of-way.
- g. Any other nuisance defined in this Section related to a marijuana establishment.

Why is the Town attempting to apply the rules for cannabis businesses to residential properties? We had the discussion at a state level and smells from private residences, be they cooking meat, baking cookies, roasting coffee or consuming/cultivating cannabis, the consensus was smells cannot be banned, because it either applies to all smells or to no smells as everyone has a different opinion of what smells are pleasant and what smells are not.

Then we had the discussions locally that were open to the public about smells and we came to the same conclusion. And at every meeting I went on record reminding the town that the A64 business rules they passed **could not be applied to residential homes. Our Marshall, Paul admitted at the 1-5-16 meeting that smell is not unlawful** so he gives any complaints he receives to Alisha. Alisha says she 'enforces' under non-compliance of nuisance ordinances.

I have yet to see an actual Code Complaint filed about cannabis via my CORA requests, let alone smell on residential property. Codes Complaints are a necessity in the realm of checks and balances of our democracy/community. A Code Complaint requires one identifies themselves and requires reference to what code or law is supposedly being violated. I was told without a Code Complaint, the Marshal nor the Town can react. The only CODE ENFORCEMENT "Courtesy Notices" I have heard of on the cannabis issue came about over 'anonymous' complaints.

For Alisha and apparently Safebuilt to be intentionally mis-representing the town code and intimidating people into giving Town access to the inside of their residential properties based on regulations that pertain ONLY to A64 businesses is criminal in my opinion and in violation of the 4th Amendment of the US Constitution.

I CORA requested 1. The letter Alisha said she had been sending to residents and 2. her "inspection form". The letter she sends has logos for both Town and Safebuilt and is signed by Safebuilt although Alisha communicated in the Jan 5th meeting that she was personally handling the cannabis complaints. I am not sure at this point who is signing the actual received letters. The letter states violation of section 7-1 **Health, Sanitation and Animals** which references Section 6-273 **Business Licenses and Regulations**.

Alisha's "inspection form" says "Consent to Inspection (present to **applicant** and explain)". Residents cultivating or consuming under A64 or A20 are not **applicants** and there is no lawful basis for the creation of an "inspection form" for residential properties. Under the 5th Amendment to the US Constitution no person is required to possess ANY paperwork that incriminates themselves under federal law. Until cannabis is removed from the CSA, ALL plant/patient counts are unlawful. That is why neither A20 nor A64 require paperwork that incriminates anyone for personal use.

Getting into someone's house to do plant counts/patient counts requires a warrant. A warrant requires evidence people are violating a code or law.

At the 1-5-16 BoT meeting Alisha responds to Kevin Mueller and Peter Fiori at about 1 hour and 17 minutes in regard to getting into someone's house without an SRU: "There is no saying no".

If our Municipal Court is granting warrants to search residential houses over cannabis smells or cannabis anything based on Nederland Town Code, especially Section 6 or Section 7, then we have an even more serious issue at hand.

Currently we have both a Town Administrator and the Town Code Enforcement company lying to intimidate people into offering them access into their residences. And if they claim they are not lying, then they are apparently not intelligent enough to be in charge of enforcing the Town Code because they do not understand English.

Either way, I want to ask for a BoT review that leads to removal of the town administrator for intentionally violating people's constitutional rights under both state and federal law. And we need to clarify with Safebuilt whether they are sending these CODE ENFORCEMENT "Courtesy Notices" about cannabis smells or if Alisha is improperly using their logo and names on the letters. If Safebuilt supports their names on the CODE ENFORCEMENT "Courtesy Notices" and Alisha's enforcement of laws that do not apply then their contract with the town should also be reconsidered. Any resident who has signed the "inspection form" or has verbally permitted Alisha into their homes has done so under false pretenses and has been intentionally violated by Alisha Reis and possibly Safebuilt.

Kathleen Chippi
Kathleen Chippi 1-19-16

