

**TOWN OF NEDERLAND
BOARD OF TRUSTEES
REGULAR MEETING MINUTES:
November 1, 2011, 7:00PM**

**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, Mayor Pro Tem Kevin Mueller, Trustees Chris Perret, Randy Lee, Annette Croughwell, and Peter Fiori.

Also present: Alisha Reis, Town Administrator, Teresa Myers, Town Clerk, Eva Forberger, Town Treasurer, Carmen Beery, Town Attorney, and Public Works Manager Jason Morrison.

C. CONSENT AGENDA

- Approval of November 1, 2011 Accounts Payable Part A, excluding Check #25730.
- Approval of November 1, 2011 Accounts Payable Part B, including Check #25730.
- Approval of October 14, 2011 Regular Meeting Minutes
- Approval of Ordinance 698, amending N.M.C. 16-210 Design Standards (Parking Lots)
- Approval of Agreement with NedCompost for location of Earth Tubs at Public Works Shop, 750 W. 5th St.

Trustee Lee asked that Ordinance 698 be pulled out from the rest of the Consent Agenda and considered separately.

Motion to approve the Consent Agenda with Minutes, Accounts Payable Part A, and the NedCompost Agreement was made by Trustee Lee, seconded by Trustee Perret, and approved unanimously.

Motion to approve the Consent Agenda with Accounts Payable Part B was made by Trustee Perret, seconded by Trustee Fiori, and approved unanimously. Trustee Lee abstained.

Trustee Lee noted his concerns that a guideline be generated prior to the adoption of Ordinance 698. Town Administrator Reis explained that her understanding was that the guidelines would be created by the Planning Commission. Trustee Lee wanted the direction that the Planning Commission draft such guidelines included in the Ordinance and asked for Town Attorney Carmen Beery's opinion. Beery responded that such direction would not be appropriate in the Ordinance but that the Ordinance could be revisited as the Planning Commission moved forward.

Mayor Gierlach opined that the standard should concern water runoff rather than number of parking lot spaces.

Motion to approve the Consent Agenda, Ordinance 698, was made by Trustee Perret, seconded by Trustee Lee, and approved unanimously.

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

Greg Willson, of Nederland, thanked the Board for its support of the NedCompost program and updated the Board on further progress made to expand composting service and iron out details. He also talked about the SAB scorecard that was included in the packet for consideration with the sidewalk IGA.

Patricia Everson, of Nederland, spoke to her concerns about the DDA finances and compliance with state laws. Specifically, she raised the question of why the DDA is not complying with the direction of the Town's bond attorney, who was especially retained for the purpose of rendering an opinion on the DDA's tax-incremental funding.

Carla Slaughter, of Nederland, read the following comments into the record:

Second time public comment to the B.O.T., November 1, 2011

I am advised by the Town administrator that Nederland snow removal standards are being lowered. Where the public works department formerly took the time to clear snow off of Town roads without blocking driveways, I understand this is now considered extra effort, a special service which the Town will not undertake. The public works staff have now been directed not to turn the blade on the snow removal equipment. As a result, driveways will often be blocked from access to Town roads by a large berm of heavy snow, as my driveway was blocked on Wednesday, October 26th.

It was explained to me by the Town administrator Reis and deputy Town clerk Edwards that exceptions would be made for seniors and persons with physical disabilities who might need extra help. Very well- I am qualified for the service, and I have requested the service, repeatedly (in January, February, March and three times in October of 2011). I do not believe I have been added to the list; I do not believe the list is even being kept, as it has been in the past.

In tough economic times, I can understand that we now have to request service that used to be routine. But I have made the request, repeatedly, last winter as well as this winter. The deputy clerk and administrator did not put me on the list when I made the request. Instead, they treated me quite disrespectfully. Refusing to list me despite my disability seems arbitrary and capricious.

Is the reduction in snow removal standards being done at the Board's direction? Is the Board even aware that the Town administration has made this change in policy?

I hereby formally request that the Board provide clear direction on snow removal to the Town administration. I further request that the Board do so without delay, as this winter's snow removal season has already begun. At the least, please do direct the Town administrator to maintain the list of people needing the extra service, and maintain it properly, without arbitrary discrimination among the Town citizens.

I also request that I be put on the list of citizens needing the extra service. I am physically disabled, and can prove it (though I am not by law required to).

Finally, I request that this citizen comment be included verbatim in the minutes of this meeting, in the hope that it won't be lost in the paperwork.

Respectfully, Carla Slaughter, 28 year resident, Nederland, CO.

Gail Eddy, of Nederland, expressed several complaints about how the DDA finances are handled, how the DDA handles relations with the residents, and transparency of DDA information (written comments included in the official file of the meeting).

Cathleen Chippi, of Greater Nederland, complained about the DDA projects and reminded the Board of its obligations under the sunshine laws. She asked that the recordings of Town meetings be made available, and that the sidewalks on First Street be made ADA-compliant.

Finally, she is against the new sidewalk proposal, and she claimed that the threats made to Town employees and Board members did not actually occur.

Kim Pastor-Culver, of Nederland, spoke out against Phase II of the sidewalks and also in favor of making the First St. sidewalks ADA-compliant.

Town Administrator Reis responded to some of the comments. She indicated that Town staff is continuing to work through the questions regarding the DDA's accounting and that a joint opinion of the DDA's attorney and the Town's bond counsel is expected shortly. Additionally, she advised the Board that a snow removal policy will soon be put forth for their consideration as a means to formalize procedures undertaken over the years. No formal snow removal policy addressing special needs for the elderly or disabled has been previously adopted by the Town.

Jason Morrison, Public Works Manager, updated the Board on the Town's development of a snow removal policy. He read into the record a rough draft of the new policy which was also available to the public, and is as follows:

Snow removal policy

I am currently working on a town policy for the municipal code so that we have an adopted plan in writing regarding snow removal. I am reviewing policies from other municipalities that are similar in size to the Town of Nederland. I do understand that snow events major or minor can be an inconvenience, but we do live in an area with an average snowfall of 140 inches per year (Western Regional Climate Center), with high winds and snow drifts. With a small crew and older equipment, sometimes we can run into issues and can only focus on the main arteries, and it can take a while before we can get to some areas. People who live in the mountains generally understand this. The levels of service we provide -are not on the same level as CDOT or even the City of Boulder.

I am working to put the proposed policy before the Board on December 6 for discussion.

Some items I will include in the policy are:

- 1. Snow plowing will not start with less than 4" of snow fall. If the snow event is going to be a major, PW will be ready as needed.*
- 2. Plowing will start at 4am and not go later than 8pm, unless the storm requires plowing hours to be extended to keep emergency routes open.*
- 3. The town will be divided into 2 levels of priority. School and emergency routes first and all others second to be cleared within 24 hours.*
- 4. Although we have received a number of special requests from residents, it is not the policy of PW work for anyone, including clearing driveway entrances, turning plow blades, staying certain distances from parked cars, slowing down or speeding up in certain areas. PW*

has a protocol to clear the roads in the town in the most efficient way possible, which is keeping plows turned outward and making one pass in each direction to open up the whole road at one time.

5. *I propose that PW assists anyone who is over the age of 65, or anyone under the age of 65 who provides a doctor's note stating they are unable to shovel snow. A list would be kept at Town Hall and citizens would need to sign up every year. This list would be taken care of when the snow stops falling and all priority roads have been taken care of, not during a storm.*

6. *PW crews cannot and will not take machinery onto any private property. Anyone on this list assumes all responsibility of damage to any unmarked obstacles.*

7. *Paved -driveways that extend into Town ROW are not the town's responsibility if damaged.*

I will continue to review other policies and add and remove items. PW's intention is to work for and with all the citizens in Nederland equally. The more time we spend doing certain things for certain people as "in kind" work, the less time and resources PW has to do the day- to- day items expected of us.

E. INFORMATIONAL ITEMS

1. DRCOG/Boulder County EcoPass program presentation.

Scott McCarey, Alternative Transportation Coordinator for Boulder County, talked about the concept behind the Nederland EcoPass. The current idea is to provide the pass to the community at no cost for at least one year (and hopefully two years) and then evaluate the community interest to determine potential cost-sharing measures. The EcoPass has been shown to generate increased interest in public transit, increased ridership, and is hopefully a means to move the County toward a county-wide pass. Implementation would require considerable community outreach and collaboration. The County has received the funding, but there are some technological delays on RTD's part. McCarey and his staff will continue to work with RTD to push for implementation. He suggested that a letter from the Mayor and the Board would be helpful.

Trustee Croughwell asked for ideas for how to fund it after the County's funding is withdrawn. McCarey responded that at that point, it would be a budget item for the Town and/or based on individual contributions and/or a targeted tax. Croughwell also asked about Town staff time contribution, but McCarey replied that the Sustainability Advisability Board has mostly carried the weight of the staffing burden for the program up to now. The Mayor explained a little bit about how the outreach could be conducted.

The Mayor asked for clarification on the boundaries of the program. McCarey explained that it would be the boundaries of the library district and the reasons for the hardline boundaries.

2. Bond sale results for new Wastewater Treatment Plant

Reis updated the Board that a better than expected interest rate had been obtained for the financing of the new Wastewater Treatment Plant.

3. Memo outlining Town applications for Boulder County COP grant program.

4. RFP for Audit Services

Town Treasurer Eva Forberger explained that the Town received three proposals for the 2012 financial audit. She also explained how the selection process was handled, and identified the company recommended for the audit.

F. ACTION ITEMS

1. Consideration of appointment of new Trustee to fill vacancy.

Town Clerk Teresa Myers read a letter into the record on behalf of Michigan Mike Torpie, withdrawing his application for the Board vacancy. His letter is contained in the official file of the meeting.

Dallas Masters, of Nederland, spoke in support of Janette Taylor, emphasizing her experience and commitment.

Gail Eddy, of Nederland, thanked former Trustee Marcie Wheelock for her service and her insightful approach. She noted that all the candidates are well-qualified, but that ultimately she had decided to endorse Janette Taylor.

Ross Alper, of Nederland, introduced himself, explained his background, and his interest in serving.

Janette Taylor, of Nederland, talked about her background in the Town and her desire to serve on the Board.

Trustee Perret spoke to the many qualities of Alper that make him an excellent candidate for

the Board. He also noted that Taylor has done quite a lot for Town and both of them would be good on the Board.

Trustee Croughwell explained that both candidates would bring many fine qualities to the Board.

Trustee Lee expressed his support for Alper's decision to apply, but noted some concerns about Alper's lack of experience and suggested that he would be very appreciated on one of the other town boards if he should not fill the current BOT vacancy. He related his experience working with Taylor on some community volunteer events and programs, and recommended her for appointment.

Trustee Fiori noted that he has no personal experience with either candidate but has found that both are very well-regarded. He expressed his pleasure that both candidates are so strong and well-qualified. He said Alper would bring a perspective from which the Board could benefit and supported him.

Mayor Pro Tem Mueller stated that he thought both candidates were very well-qualified but that he felt that Alper has greater obligations to attend to at this point, but should investigate membership on an advisory board and potentially running for an elected spot on the Board in April.

The Mayor expressed his support for Taylor, based on her extensive experience within the Town.

Motion was made by Trustee Lee to approve the appointment of Janette Taylor to the Board of Trustees, seconded by Trustee Croughwell, and approved by a vote of 5 to 1, with Trustee Fiori voting no.

Trustee Taylor was sworn in by Myers.

2. Consideration of agreement to join Statewide Internet Portal Authority (SIPA).

Myers introduced the item and explained that the Town would like to apply for a grant to create a mobile website functionality from the SIPA. In order to do so, the Town must be a

member of the SIPA. There is no charge for the membership, and this agreement would create that membership relationship, allowing the Town to apply for the desired grant.

Motion was made by Mayor Pro Tem Mueller to approve the SIPA agreement, joining the State Internet Portal Authority, seconded by Trustee Fiori, and approved unanimously.

Motion was made by Mayor Pro Tem Mueller to adjourn as the Nederland Board of Trustees and re-convene as the Nederland Liquor Licensing Authority, seconded by Trustee Perret, and approved unanimously by a voice vote.

3. Consideration of liquor license application – Pioneer Inn (Tavern Transfer for Ownership) – Liquor License Authority Hearing.

The Board of Trustees adjourned and re-convened as the Nederland Liquor Licensing Authority.

The script, as related in the official Board packet, was followed.

Cynthia Shaw-Pierce, the Applicant, introduced her application on behalf of the Pioneer Inn (PI). She pointed out a discrepancy in some of the packet materials, which referenced the license at issue as a “Hotel and Restaurant Liquor License” rather than as a “Tavern Liquor License.” Myers noted the error, apologized for it, and agreed to correct it in all final documents for the file. The application under consideration clearly stated that the Applicant was seeking a Tavern license.

Gail Eddy, of Nederland, spoke in support of the PI application.

Carla Slaughter, of Nederland, also spoke in support of the PI application.

Teresa Warren, of Greater Nederland, also spoke in support of the PI application, noting that it feels like an “entirely different place” than before the transfer of ownership.

Trustee Lee asked some questions about past history of over-serving some customers and asked the Applicant about steps being taken to insure that these problems will not recur. Shaw-Pierce explained that everyone at the Pioneer Inn has now been TIPS trained, and she

expressed her strong commitment to the safety of her patrons.

Shaw-Pierce made a closing statement that focused on her improved safety record and her constant cooperation with the Town police and administrative authorities.

Trustee Perret spoke to his involvement with the establishment and his support for the license application. Trustee Fiori spoke in support of Shaw-Pierce.

Motion was made by Trustee Perret to approve the Transfer of Ownership Tavern liquor license application for the Pioneer Inn, seconded by Trustee Fiori, and approved unanimously.

4. Consideration of liquor license application – Salto Coffee Works (Tavern Transfer for Ownership) – Liquor License Authority Hearing.

Marcus and Karina Luscher, on behalf of the Applicant, Salto Coffee Works, introduced their application and briefly outlined their business plan.

David Sites, of Nederland, asked the Board to deny the license based on his concerns about parking availability and traffic patterns. He introduced a photo he took a few days earlier, identified as Interested Party's Exhibit #1.

Gail Eddy, of Nederland, asked the Board to deny the request based on the property's location near young children and families.

Carla Slaughter, of Nederland, said that she expects that the Applicants will respect the neighborhood feel and keep appropriate hours for that particularly location.

Janet Perry, of Nederland, spoke to some of the previous problems on First St. concerning speeding traffic and congestion, and some of the alcohol-related problems that occurred when the Shining Star was operating there.

Beery reminded the Board and the audience that the Liquor Licensing Authority was not allowed to consider land use concerns, such as parking or building set-backs, but only whether the Applicants had fulfilled the burden necessary to obtain a liquor license and whether their character was sound.

Mike Herman, of Greater Nederland, spoke in favor of the Applicant's liquor license.

Rich Farnham, of Nederland, spoke in support of the Applicant's liquor license.

Donna Kirkpatrick, of Nederland, asked some questions about how the patio would be enclosed and the hours of operation. Karina Luscher explained that boulders (excavated from the property) and signs will be incorporated into the patio enclosure, and that the hours of operation, as stated in the liquor license application, will be 7:00AM to 10:00PM.

Karina Luscher made a short closing statement, encouraging the Board to approve their application.

The Mayor asked how many bike parking spaces the establishment will have, and Luscher responded that there would be about 20 parking spaces and that all employees will be given EcoPasses.

Trustee Fiori asked what kind of music the establishment would have, and Karina Luscher replied that it would be early evening music, rather than late night music.

Trustee Lee asked Karina Luscher to identify steps they are taking to insure that over-service would not occur. Luscher replied that she will have her employees TIPS trained and that she will take a hard line against any employee that violates liquor law.

Trustee Lee said that he supports the license application, despite not being a drinker himself, and noted that the Luschers are responsible business owners and it will be good for the town.

Trustee Croughwell noted that it seemed that the Applicant was trying to bring a good small business to the Town and that the Luschers did seem responsible and capable.

Mayor Pro Tem Mueller and Trustee Fiori voiced their support for approving the license.

Trustee Perret questioned the need for the liquor license. Trustee Taylor introduced some levity into the discussion and expressed support for approval of the license. Mayor Gierlach

voiced his support.

Motion was made by Trustee Lee to approve the Beer & Wine liquor license application for the Salto Coffee Works, seconded by Trustee Taylor, and approved by a vote of 6 to 1, with Trustee Perret voting no.

Motion was made by Trustee Perret to adjourn as the Nederland Liquor Licensing Authority and re-convene as the Nederland Board of Trustees, seconded by Trustee Taylor, and approved unanimously by a voice vote.

G. DISCUSSION ITEMS

1. Discussion of Intergovernmental Agreement (IGA) between the Town and the Colorado Department of Transportation (CDOT) regarding Sidewalks Phase II.

Reis introduced this item, explained the background, the financing and approval process, and various other details of the IGA and sidewalk project. Beery also noted some provisions within the agreement that she would like to see included in the agreement prior to actually executing the agreement.

Ray Rovey, of Nederland, spoke in support of the sidewalk project and talked of the additional safety it has provided to all pedestrians.

Martin Cheshes, of Nederland, spoke in favor of the sidewalk project and the improved safety for the Town's older residents. He also noted that the Historical Society had voted to support the project.

Richard Simonelli, of Nederland, voiced his opposition to the sidewalk project. He also told the Board that he is the caretaker of a Nederland resident with chemical sensitivities who was adversely affected by the installation of the Phase I sidewalk project.

Dallas Masters, of Nederland, spoke in support of the sidewalk project and the DDA, and he talked about the fact that this project has been considered for a long time and is the best way to leverage available state and federal funds. He also recommended that people upset about the sidewalks should revisit the processes used to begin and complete projects in Town. Finally, he noted that this is not the design stage, but only the funding stage, and it would be better to

discuss design at a more appropriate stage.

Ralph Myertons, of Nederland, stated that he was “500% in favor of the sidewalks” and shared his sense of increased safety after Phase I. He noted that sidewalks allow people to walk, which is better than people getting into cars.

Carla Slaughter, of Nederland, shared her concerns that the Town might be caught with the full bill for the project if the project was put to the ballot vote in April and voted down.

Gail Eddy, of Nederland, spoke against the sidewalk project. She related her experiences with the DDA and her impressions that the new sidewalks are not needed.

Beth Davis, of Eldora, seconded quite a bit of Eddy’s comments. She noted that sidewalks do not, in themselves, guarantee safety. She urged the Board not to accept the funding.

Diane Fleming, of Nederland, thanked the Board for its dedication to the community and noted that the voice of the citizenry is the best element of democracy. She criticized many of the support letters as being uninformed of the intricacies of the issue. She related to the Board and audience the contents of her phone call with a DRCOG official. She urged the Town to organize a community meeting with a DRCOG official to discuss all the alternatives available.

Motion was made by Trustee Fiori to extend the meeting until 10:30PM, seconded by Trustee Perret, and approved by a voice vote.

Dennis Duckett, of Nederland, spoke against the sidewalks and argued that the DDA’s authority should be confined to the area of Town zoned as the Central Business District. He also noted his concerns about how the project will damage the watershed.

Vera Schulte, of Nederland, spoke to how sidewalks create better accessibility of downtown for mothers with strollers and small children. She also talked about improved ease for transit users. She encouraged the Board to pursue the funding and work out the planning details at that stage.

Ken Adler, of Nederland, talked about the various projects that the DDA has considered and