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## **TOWN COUNCIL MEETING MINUTES TUESDAY, OCTOBER 7, 2008 5:00 P.M.**

- I. CALL MEETING TO ORDER** – Mayor Aragon, Council Member Atkinson, Council Member Cotton, Council Member Holt, Council Member Jackson, Council Member Pierce, Council Member Weiler
- II. APPROVAL of MEETING MINUTES FROM SEPTEMBER 2, 11, 19, 22 and 26, 2008** – Minutes were approved as read
- III. LIQUOR LICENSES**
  - 1. Special Event Liquor License - Upper San Juan EMT Association** – Council Member Cotton moved to approve the special events liquor license, Council Member Jackson seconded, unanimously approved.
- IV. DELEGATIONS**
- V. NEW BUSINESS**
  - 1. Resolution 2008-27, Initiating Annexation of the 7 acres of Goodman Property** – Mr. Robert Goodman submitted a petition for the Town to annex seven acres of property located at 449 County Road 411 (property south of Cemetery Road only). Approval of this resolution of ‘Intent to Annex’ establishes that the submitted petition is in substantial compliance with the Municipal Annexation Act and specifically C.R.S. 31-12-107(1). Staff has worked over the past two months to initiate the annexation. Council Member Jackson moved to approve Resolution 2008-27, Resolution of ‘Intent to Annex’ property known as the Goodman Annexation (7 acres), Council Member Holt seconded, unanimously approved.
  - 2. Resolution 2008-28, Initiating Annexation of 15 acres Goodman Family Trust** – The Goodman Family Trust submitted a petition to the Town to annex fifteen acres of property located at 651 County Road 411 (property west of Cemetery Road only). Approval of this resolution of ‘Intent to Annex’ establishes that the submitted petition is in substantial compliance with the Municipal Annexation Act and specifically C.R.S. 31-12-107(1). Council Member Holt moved to approve Resolution 2008-28, Resolution of ‘Intent to Annex’ property known as the Goodman Family Trust Annexation (15 acres), Council Member Cotton seconded, unanimously approved.
  - 3. Discussion in regards to the Watter’s Property with possible executive session per C.R.S. Section 24-6-402(4)(a)** – The Town has received correspondence from Jean Gray, representative for the Watter’s Property. The correspondence indicates several issues in which Ms. Gray has found with the appraisal that was completed on the subject property. Ms. Jean Gray representing the Watter’s property explained the appraisal did not consider several aspects as to the value of the property, but they would like to work with the Town to move the discussion and sale along. The Town Council’s next step will be to make an offer on the Watter’s property.
  - 4. Consideration of a Geothermal Lease for Town Wells PS-3 and PS-5 between the Town of Pagosa Springs and Gulfstream Worldwide, Ltd, Northwestern Investments, Inc, Albuquerque Properties, Inc and Pagosa Resort and Spa, Inc.** – The Town’s legal

counsel has prepared a draft lease for the effluent from the Town Wells PS-3 and PS-5 in the amount of 400 GPM. This lease has been prepared as directed by council to include the consideration of lease terms through December 2050 in 10 year increments, at an annual rate starting at \$12,000 per year with a \$5,000 increase per ten year lease. Attorney Bob Cole suggested that the information in the proposed contract does not have all information needed and suggests waiting to have it approved. Mr. JR Ford believes the Town should lease the water rights, however feels that all property owners should be able to lease the water rights and have community input as far as how the water rights should be used. Mrs. Marcia Pruitt has concerns about the filing by the Springs Resort on the water rights which is against the Town's Charter. She has an agreement with the town for 200 gpm during the heating season and believes the summer is not considered the heating season. She suggests a 1% tax on bath sales to boost the Town's revenue. Mr. Mark Garcia believes it is too early to establish a value for a lease in the future with the changes in economy. Mr. Chris Gerlach doesn't believe the geothermal resource is guaranteed to be available due to possible tectonic activity. Ms. Jean Gray believes the lease is one sided with no way for the Town to exit the lease and exercise options in the future. Mr. Bill Hudson asked if the Town has had an appraisal on the price of the water. Council Member Pierce brought up an issue with part C of the terms of the lease regarding the renewal, also she believes the filing on the wastewater by the Springs is still moving forward. Also, the term 'treated' waters going into the river and the 'not treated' water put back into the great spring. She would like to clarify the words 'treated and not treated', also, correction of the Post Office Box on the lease. She has concerns regarding the ability of the Town to withdraw from the lease. Council Member Holt agrees the Springs needs to withdraw their filing, he also clarified the Springs would like 'up to' 400 gpm when needed or necessary. He also suggested that there is not a huge demand on the water based on the amount of bids received on the Rumbaugh well RFP. Council Member Weiler would like the Springs to complete an economic impact study to show the Town Council the impact of the resort. Council Member Atkinson has concerns about the lease length per Charter requirements, also the possibility of not having enough gpm for the geothermal greenhouse. Staff will address some of the items brought up by Council Member Pierce, Atkinson and Holt including the immediate withdraw of the filing on the effluent water, instead of in conjunction with the lease approval. Mayor Aragon stated that he is doing his best to better the community and stay sensitive to the Town's needs. Council Member Holt moved to continue this item at the mid-month meeting and have staff get with Bob Cole to address the concerns by council with the lease, Council Member Pierce seconded, motion carried with one abstention (Council Member Cotton).

5. **Discussion in regards to amending Section 16.4 of the Municipal Code in regards to the Town Tourism Committee** – Council Member Pierce noted concern with the existing town municipal code language in regards to the Town Tourism Committee. Council Member Atkinson will forward the by-law changes to Council Member Pierce to include in her investigation into the codes and by-laws.
6. **Discussion in regards to Payment of Monthly Bills** – Council Member Pierce requested Council address the method in which monthly bills are being paid by the town. Council Member Weiler and Pierce would like to see the bills prior to being paid and not approve bills that have already been paid. Council Member Cotton would like to have the department heads approve the invoices prior to being paid which is the current process. Additional information will be provided to council at the mid-month meeting.
7. **Consideration for Extending an Offer of Employment for the Town Manager Position** – Mayor Aragon has been in contact with Mr. David Mitchem regarding the town manager's position. Council Member Pierce moved to approve an additional \$200 per month housing allowance and extend an offer of employment to Mr. Mitchem and have members of council work on an employment agreement with Mr. Mitchem, Council Member Holt seconded, unanimously approved. Mayor Aragon appointed Council Member Weiler and Pierce to work with him and staff to prepare the employment agreement.

## **VI. OLD BUSINESS**

- 1. Ordinance No. 720 (Second Reading) – Annexing ‘Blue Sky Village’** – The council will conduct the public hearing as required under the Municipal Annexation Act, and continue review of Ordinance No. 720 (second reading) until the next regularly scheduled meeting at which time an annexation agreement in an acceptable form can be forwarded to Council for concurrent review. Mayor Aragon opened the meeting to public comment, and after no comment closed to public comment. Council Member Pierce moved to continue this item until the next meeting, Council Member Holt seconded, unanimously approved.
- 2. Ordinance No. 721 (Second Reading) – Zoning ‘Blue Sky Village’** – The council will continue review of Ordinance No. 721 (second reading) based on the continuation of Ordinance No. 720 at the next regular meeting. Mayor Aragon opened the meeting to public comment, with no public comment Mayor Aragon closed to public comment. Council Member Pierce moved to continue this item until the next scheduled meeting, Council Member Jackson seconded, unanimously approved.
- 3. Discussion in regards to the San Juan River Restoration Project** – Council Member Atkinson has been working with REP and Riverbend Engineering to further the San Juan River Restoration Project. Council Member Atkinson explained that REP was not contracted to secure easements and accrued additional expenses due to extensive coordination with entities. REP agreed to finish design and survey work on the Davey’s wave at no charge, and work with Riverbend on the new features. The fishing mitigation was approved by the DOW and easement issues are not a factor. Council Member Jackson moved to have REP complete the project at no charge, and thank Council Member Atkinson for her hard work, and authorize Riverbend to initiate their phase as proposed, Council Member Pierce seconded, motion unanimously approved. Mr. Mark Garcia asked why there is a change in the design. Council Member Atkinson explained the Town is in violation of the Clean Water Act and the concrete grout in the Davey’s wave is not approved per the permit conditions. Additionally there is no easement with the Springs for securing the Davey’s wave. Mr. Garcia explained there are two permits issued from the Corps including moving the Davey’s wave upstream. Council Member Atkinson and REP feel moving the Davey’s wave upstream far enough to get it away from the Springs Resort property will eliminate the pooling of users. She explained easements across from Centennial Park are not secure. Mr. Cappy White believes any consideration of the river needs to be addressed to the project as a whole. Mr. JR Ford suggests staying away from the gauging station. Mr. Bill Hudson asked for clarification of REP’s design. Council Member Atkinson explained REP will remove and redesign Davey’s wave to be installed near the chamber, and Chris with Riverbend will design the Town Park water features. Mr. Anthony Doctor stated there is not a conflict of use regarding the kayakers, tubers, and fishermen that these users don’t use the river at the same time.

## **VII. DEPARTMENT HEAD REPORTS**

- 1. Parks and Recreation Department Report** – Youth soccer, volleyball and basketball are on the current list of activities. The Town wetlands are “in full compliance” according to the Southwest Land Alliance. The Mayor’s Green Ribbon Panel update includes signs throughout the community and a poster/essay contest for the local schools. The sports complex has less than two weeks remaining in the contract and preliminary reimbursements in grant funds have been requested. The South Pagosa Park grass is coming up and looking good, but the field will remain closed until early summer 2009. The skate park design is underway after a public meeting in September. The design process should be complete by the end of the year, and the town will be able to pursue grants.
- 2. Town Tourism Committee Report** – Barhart Marketing has finished the discovery phase report which can be found on the Town’s website under documents. The occupancy rates are still down for the year. The TTC budget subcommittee has been working on the 2009 budget.
- 3. Planning Department Report** – The Historic Preservation Board has developed a proposed façade enhancement program. After a final modification, a public review of the draft Land Use and Development Code will be available. Staff continues to work with a few property owners along the proposed town to lakes trail alignment to secure necessary easements prior to the design/engineering phase. Several annexation petitions are in

various stages of processing including, Goodman, Blue Sky Village, Blue Sky Ranch, and Reservoir River Ranch projects.

4. **Interim Town Manager Report** – July 2008 sales tax receipts show an overall decrease of .11% year-to-date in sales tax collections. Sales tax renewal ballot language has been approved by the County for the November election. Staff has been working to develop a policy for the Lewis Street “Festival Street” reservations. James Dickhoff is working on clean-up code enforcement and business licensing. Mayor Aragon asked Ms. Gray how she would like to receive an offer on her property. Ms. Gray suggests an open dialog rather than written. Council Member Weiler moved to make a formal offer of \$200,000 for the Watter’s property, Council Member Holt seconded, motion carried. Ms. Gray explained that they are and have always been willing to grant an easement for the river walk project and will consider the offer and provide the town with a counter offer. Council Member Jackson would like to have a fall retreat and would like staff to put it on the calendar mid December.

**VIII. APPROVAL OF BILLS** – Council Member Holt moved to approve the bills for September, Council Member Jackson seconded, motion carried.

**IX. ADJOURNMENT** – Motion duly made, the meeting adjourned at 7:05pm

**Ross Aragón**  
**Mayor**