



551 Hot Springs Boulevard
Post Office Box 1859
Pagosa Springs, CO 81147
Phone: 970.264.4151
Fax: 970.264.4634

TOWN COUNCIL MEETING MINUTES TUESDAY, AUGUST 5, 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 Weiler
- II. **APPROVAL of MEETING MINUTES FROM JULY 1 and JULY 17, 2008** – Minutes were approved as read with the exception of Montoya's Elk Horn Restaurant from the July 1st meeting, which was referred to as a renewal application instead of a new application.
- III. **LIQUOR LICENSES**
 1. **New Hotel & Restaurant Liquor License Application - The Quaking Aspen Café & Gallery located at 456 Pagosa Street** – Council Member Cotton moved to approve the new liquor license, Council Member Jackson seconded, unanimously approved.
 2. **Liquor License Renewal – Giant Store #068**
 3. **Liquor License Renewal – City Market #38**
 4. **Liquor License Renewal – City Market #45**
 5. **Liquor License Renewal – Gringo Grill DBA Kip's Grill and Cantina** – Council Member Jackson moved to approve the liquor license renewal, Council Member Atkinson seconded, unanimously approved.
 6. **Special Events Liquor License – Pagosa Springs Public Facilities Coalition**
 7. **Special Events Liquor License – Southwest Land Alliance, Inc**
 8. **Special Events Liquor License – Humane Society**
 9. **Special Events Liquor License – Folkwest Inc (2 events)**
 10. **Special Events Liquor License – Chamber of Commerce Colorfest**
 11. **Special Events Liquor License – St. Patrick's Episcopal Church** – Council Member Cotton moved to approve the special events liquor licenses, Council Member Jackson seconded, motion unanimously approved.
- IV. **DELEGATIONS**
 1. **Junk Ordinance Enforcement – Bob Hart** - Mr. Hart thanked council and staff for starting the beautification program of Pagosa. Council Member Jackson explained that due to the budget there will not be a fall cleanup. Council Member Jackson and James Dickhoff, of the building department, will be addressing violating residents giving them time to correct the problem before putting them before Judge Anderson.
- V. **NEW BUSINESS**
 1. **REVIEW OF PLANNING COMMISSION ACTIONS FROM JULY 8 & 22, 2008**
 - a. **Eighth Street Townhomes Plat, Minor Subdivision** – The planning commission has recommended the approval of the minor subdivision with condition (1) revise survey plat per staff's comments; and (2) submittal of final plat and codes & covenants for recording. Council Member Holt moved to approve the requested minor subdivision with two (2) conditions, as recommended by the Planning Commission at the July 8, 2008 meeting, Council Member Weiler seconded, unanimously approved.
 - b. **Replat of Mesa Heights Subdivision & Development Improvement Agreement** – The planning commission approved the proposed replat with conditions (1) revise survey plat per staff's comments; and (2) submittal of signed DIA and final plat for recording. Council Member Holt addressed the possibility of greater than 12% grades. The project representative believes the 12% grades will be limited. Joe Nigg, associate planner, stated potential buyers of the lots will be informed of the Town's overall acceptance of the grade per the LUDC. Council Member Weiler moved to approve the requested replat with two (2) conditions, as recommended by the Planning Commission and additionally approve the associated Development Improvement Agreement, Council Member Holt seconded, unanimously approved.
 - c. **Sawmill Place (Bear Country Center) Preliminary Plan Extension Request** – The planning commission recommended approval of the preliminary plan extension for an additional six (6) months to expire on January 24, 2009. Council Member Jackson moved to approve the Sawmill Place preliminary plan extension request for an additional six (6) months, to expire on January 24, 2009, as recommended by the planning commission, Council Member Atkinson seconded, unanimously approved.

2. **Impact Fee Deferral Request & Agreement - Immaculate Heart of Mary Church** – The Immaculate Hearth of Mary Catholic Church is requesting an impact fee deferral agreement for their building at 353 South Pagosa Blvd for a period of ten (10) years with a three and a half percent (3.5%) per annum interest factor. Council Member Atkinson moved to authorize Mayor Aragon to execute the Impact Fee Deferral Agreement between the Town of Pagosa Springs and Immaculate Heart of Mary Catholic Church, Council Member Holt seconded, unanimously approved.
3. **Impact Fee Deferral Request & Agreement – Sherwin Williams Paint Store** – The Primus Properties LLC is requesting an impact fee deferral agreement for their proposed building on Lot 2A & 2B, Majestic Minor Subdivision (Eagle Drive) for a period of ten (10) years with a three and a half percent (3.5%) per annum interest factor. Council Member Cotton moved to authorize Mayor Aragon to execute the Impact Fee Deferral Agreement between the Town of Pagosa Springs and Primus Properties LLC., Council Member Jackson seconded, unanimously approved.
4. **Resolution 2008-19 –Verification of Eligibility to Annex ‘Blue Sky Village’** – The petition as submitted by Prime Property Investment of Colorado LLC, includes seven (7) tracts of property which contains six (6) right-of-way tracts held under Colorado Department of Transportation ownership and an approximate 96 acre tract known as Blue Sky Village. Resolution 2008-19 presents as fact that the property is in compliance with Section C.R.S. 31-12-105, that proper notification has been published and delivered, and the requirements of Article 10 of the LUDC have been met. In regards to the findings the resolution concludes that the property is eligible for annexation, that no limitation or restrictions apply to the annexation, that no annexation election is required and that the property will be zoned by a separate ordinance. Pursuant to Section 31-12-109 C.R.S. the Town council must complete a formal public hearing on the proposed annexation to determine compliance with the above mentioned statutes. Mayor Aragon disclosed that he has a son who is employed by the ranch. Mayor Aragon opened to public comment, no comment made, Mayor Aragon closed public comment. Council Member Jackson moved to approve Resolution 2008-19, setting forth findings of fact and conclusions in regards to the Blue Sky Village Annexation, Council Member Weiler seconded, unanimously approved.
5. **Consideration of a Pre-Annexation Agreement for Blue Sky Ranch** – At the July 17th work session BSR presented the land use plan to the Town Council and discussed BSR’s concept and intent with respect to the development. BSR is requesting a pre-annexation agreement of approximately 1,356 acres of property to the town. The project includes single-family and multi-family residential, hotel and conference center, golf course and club house, equestrian center and multi-use arena. After review by Town’s legal council staff recommends several modifications which have been incorporated into the pre-annexation agreement. Council Member Holt wanted confirmation that the eight items discussed at the work session were included in the agreement, staff confirmed. Kelly Fischer asked if BSR will be made to connect to city sewer or if they will have their own, staff explained that is yet to be determined. Council Member Weiler believes the tax base is an asset to the community along with the equestrian center and the design with homes pushed away from the highway is another great benefit for the community. Council Member Atkinson would like to add language regarding open space to include monies for additional open space in the community and requiring BSR to retain the current amount of planned open space. Michael Whiting feels the dedication of open space in this project is commendable, however didn’t feel it was perpetually protected. Council Member Holt moved to continue this pre-annexation for consideration at the mid-month meeting, Council Member Cotton seconded, unanimously approved.
6. **Ordinance No. 717 (first reading), Adopting a Code of Ethics** – Amendment 41, an amendment to the Colorado Constitution adopted by voters in 2006, prohibits government officials and employees, and their spouses and dependent children, from receiving more than \$50 worth of gifts in any calendar year, with certain limited exceptions. The amendment allows home rule municipalities to opt out and adopt their own Ethics Code. The Council has discussed a proposed ordinance in June and July of 2009 and expressed concern about the Section 2.4.4 of the proposed ordinance that establishes an ethics review board. Town’s legal counsel has recommended that the alternative process to an ethics review board being established be that a person/council member files a complaint with the town manager, who then forwards the complaint to Town legal counsel for review and opinion. If the opinion supports the allegation then the Town moves forward with the appropriate correction action/penalty or if the opinion does not support the allegation, the complaint is responded to in a written form with an explanation therein. Council Member Jackson moved to approve the first reading of Ordinance No. 71, Council Member Atkinson seconded, motion carried with one nay, Council Member Cotton
7. **Ordinance No. 718 (first reading), Amending Loitering** – The Town’s legal counsel reviewed the existing ordinance and, upon recommendation of the Chief of Police, changed it so that the officer who issues a warning is not the only officer who can charge a violator and “aggressing begging” can be charged without warning. Council Member Holt moved to approve the first reading of Ordinance No. 718, Amending Section 21.10.4 of the Town of Pagosa Springs Municipal Code Regarding Loitering, Council Member Atkinson seconded, unanimously approved.
8. **Ordinance No. 719 (first reading), Adopting Prohibited Acts in Town Parks, Playgrounds and Recreational Facilities** – Town’s legal counsel recently drafted a new ordinance that will further define prohibited acts in Town parks, playgrounds, and

recreational facilities to allow for improved management of these facilities. The new ordinance clarifies issues related to overnight use, cleaning up after pets, driving and parking, building/setting up unauthorized structures, unauthorized vending/peddling, etc. Signage will be installed to inform the public. Council Member Jackson moved to approve the first reading of Ordinance No. 719, Adopting Section 14.2.5 of the Town of Pagosa Springs Municipal Code, Regarding Prohibited Acts in Town Parks, Playgrounds, and Recreational Facilities, Council Member Holt seconded, unanimously approved.

- 9. Consider for a proposal to conduct guided Horseback rides on Reservoir Hill** – Matt Poma of Poma Outdoors has requested and received preliminary support from the Parks & Recreation Commission in July for a proposal to conduct guided horseback rides on Reservoir Hill. Mr. Poma is willing to perform associated maintenance on the trails he uses and has agreed to defer a small percentage of his business proceeds to the Town for additional trail-maintenance purposes. Signage at trail heads to notify the public of additional equestrian activity is suggested. Mr. Poma hopes he can work with the Parks and Recreation department to coordinate when and where horse rides are possible during the summer months and this year, everyday of the week, now until Labor Day. Council Member Jackson suggests an annual renewal of the contract. Council Member Atkinson requests an updated impact report from the Parks Department regarding the trail use and maintenance. The council expressed concerns with the possibility of a mountain bike versus horse situation and feels signage is important. Council Member Jackson moved to approve Mr. Poma’s proposal to conduct guided horseback rides on Reservoir Hill contingent upon the creation of a written contractual agreement which can be agreed upon by the Town and Poma Outfitters, Council Member Weiler seconded, unanimously approved.
- 10. Discussion on San Juan River Restoration Project** – After several meetings with staff, public, engineers, DOW, and the Springs Resort, this project has not had success with moving forward. Discussions with the Springs Resort to gain an easement for this project have not been favorable, and the Town needs additional easements from the Springs Resort for the Riverwalk and Bridge projects. The designed river project is not acceptable to the owners of the Springs Resort property and staff has requested direction as to the desire to continue negotiations on behalf of this project or to discontinue any additional investment of time and capital for this project. Council Member Holt has been contacted by several people wanting the project. Council Member Atkinson explained that the meeting with the Army Corps of Engineers was painful and agreed the Town had made mistakes and finding the past problems and correcting them is top priority. Council Member Weiler said the Town had a “minor repair to structure” permit, Mark Garcia was told to stop work and he ignored the stop work order. The Town didn’t want to admit they were in violation of the permit. The Town is in violation of the DOW fishing is fun structure as built. The Town was issued a permit for the river restoration plan with 10 conditions. The Davey wave as it currently exists gives REP three options according to the Army Corps (1) prove it will work (2) remove it (3) or replace it with what was there previously. He believes everyone wants the river restoration and supports the vision, but wants to be transparent and complete it openly, professionally, and without embarrassment to the community. The original contract with REP was for \$43,000 and believes the Town should go back to have REP fix it at no additional costs and return any monies over the \$43,000 budget. Council Member Atkinson believes we need to address easements, public access, and moving the Davey wave. Council Member Jackson believes in the project but would like to see the possible costs to complete it. Council Member Weiler suggests only taking out the Davey wave and then full stop until the Council re-evaluates the project and then proceed “slow and right”. Council Member Atkinson moved that the council support the original intent and vision of the plan which is the river restoration project developed by REP with the conditions in the letter from the Army Corp of Engineers submitted to the town to include; (1) prior to moving any further on construction of features beyond the Daveys wave, that all easement are legally secured and commit to moving Davey’s wave this year; (2) request full disclosure from REP of any authorization beyond contractual amount, and if necessary request monies refunded; (3) obtain and resolve public access issues with the DOW and the Army Corp of Engineers; (4) council along with staff form a committee to take responsibility of this project; (5) Town attorney validate all information for this project, except Daveys wave, before going forward, Council Member Holt seconded the motion. Council Member Weiler agrees with establishing that the Town Council supports the river restoration vision, however the contractual obligation between REP and the Town should be terminated. Mr. Bill Hudson asked for clarification regarding Council Member Atkinson’s motion to move or remove the Davey wave, Council Member Atkinson said she meant to move the wave per the permit, to in front of the chamber. Mr. Hudson also suggests asking Mr. Pitcher to move the wave. Mr. Pitcher said the offer to move the Davey wave made at the last meeting is still open and he is committed to corrective measures. He offered to financially help the Town with obtaining a local engineer firm to help the project continue. Mr. Chasey suggests moving the wave and adding another wave to a different area of the river, and then later putting a kayak park near the sports complex. Mr. John Reeve believes we are stuck in the past and would like to see the Council move forward. Council Member Atkinson modified her motion to say the Council supports river restoration and the intent of the vision that drove the plan including the kayak park. The motioned failed with three nays, Council Member Weiler, Council Member Jackson, and Council Member Cotton. After much discussion Council Member Atkinson moved that Council approve and support the original vision that drove the application to the Corps that

includes the kayak features, includes moving Daveys wave and installation of the five kayak features down stream, that all of the easements necessary to do all of this work have to be secured and legally agreed to upon review of our attorney, that public access to the river has to be secured according to Corps and DOW requirement, that we are going to insist upon REP to complete the work that they have contract for and if there is a cause for refund, we will insist upon that, anything we do has to be reviewed by our attorney relative to this project, Council Member Holt seconded, motion was approved with two nays Council Member Cotton and Council Member Weiler.

VI. OLD BUSINESS

- 1. Ordinance No. 712 (second Reading) Adoption of the International Energy Code –** This ordinance is in compliance with HB 1146 which requires that all jurisdictions adopted a minimum energy code standard. This will provide continuity and clarity of the building code adoptions. Other significant changes include; rewording of the building codes to reflect Town Council's decision to defer building permit fees until the issuance of Certificate of Occupancy, incidental rewording, or changes to outdated code references with the LUDC to make them current. Council Member Holt moved to approve the second reading of Ordinance 712 re-adoption of the international building codes with amendments and inclusion of the international energy code, Council Member Atkinson seconded, unanimously approved.
- 2. Ordinance No. 716 (second reading) Amending the Municipal code in regards to Signage –**This ordinance repeals and readopts Section 21.13.2(8)(c) of the Pagosa Springs Municipal code to allow for off-site signage for real estate "Open House" signs only. Council Member Cotton moved to approve the second reading of Ordinance No. 716, repealing and readopting Section 21.13.2(8)(c) of the Pagosa Springs Municipal Code, revising sign code provision, Council Member Jackson seconded, unanimously approved.

VII. DEPARTMENT HEAD REPORTS

- 1. Parks and Recreation Department Report –** Reservoir Hill master plan includes improvement with restrooms, water, more hiking trails, signage, parking, and winter activities. Adult softball, youth tennis, park fun, youth soccer, and hooked on fishing are just a few of the programs that are running in the recreation department. A filtration system for the sports complex pumping facility should significantly reduce maintenance costs for the existing irrigation systems at this site. The filter is approx. \$11,000 to be split with the school district. Phase II of the Sports Complex Construction Project is running behind due to recent rains. The project is scheduled to be completed in late August. Council Member Jackson brought up a capital improvement issue pertaining to taking down the electric lines in the 5th Street alley. Tom Carosello explained although the Sports Complex is under budget he would like Council to vote to approve this item. Council Member Jackson asked if making the sidewalk a straight line would decrease the cost of burying the line. Torry Hessman explained that LPEA engineered the burying of the electric lines for \$22,283, straightening the sidewalk would require a change order and then additional engineering by LPEA and waiting to bury the lines would not be cost effective.
- 2. Planning Department Report –** Historic preservation board continues to have a vacancy. The land use and development code module 2 of the draft code should be available during the week of August 4th. Final plan of the Wayfinding and signage program will be presented to Council at the Aug. 28th meeting. Staff is working with Mr. Robert Goodman to initiate annexation of a 14 acre tract adjacent to Cemetery Road.
- 3. Interim Town Manager Report –** Sales tax has decreased once again and staff has been working with department heads to reduce overall departmental spending by 3% for the year. During the July 24th joint town/county work session the county noted they would draft the ballot language for the renewal of the 2% split sales tax for the November 2008 ballot. EPS cited that the approximate cost to update the Town's adopted impact fee schedule would be \$6,500-\$7,500. EPS would take into account the current growth trends, pricing and de-coupling the town from the county's structure. Council Member Weiler has requested a monthly revenue/expenditure report that can help track trends in the Town's budget more accurately and has been working with Deanna to create this monthly spending report. A five year capital improvement plan is needed to prioritize projects and DoLA has committed to fund \$36,250, 50/50 match, for the completion of the plan. Staff explained that if not completing the Hermosa Street bridge, the Town Park bridge is a possibility. Mayor Aragon appointed Council Members Weiler and Cotton deal with budget issues and Council Members Atkinson and Council Member Weiler head up the river restoration project. Due to construction, the sidewalk behind the existing Springs Hotel will be closed until approximately Dec. 15, 2008. Interviews for potential Town Manager candidates will be held in September. The TTC has hired Barnhart to produce a marketing plan and assist with public relations and new Town logo. Staff has been working with Housing Solutions of the Southwest, Socorro Senior Living, to submit a CDBG application for their proposed 20 unit senior living project on the corner of 8th Street and Apache Street. Staff has been working to identify existing violators of the junk nuisance ordinance and with property owners to bring their properties into compliance in an agreeable timeline. Council Member Weiler asked to move the mid-month meeting to the 28th of August, council agrees. The Mercer group will be contacted for the meeting on the 28th and interviews the end of the week of Sept. 8th. LPEA has estimated the cost to bury overhead lines through the South 5th Street alley at \$22,283. Staff would like direction if council would like to proceed with this

additional scope. Council Member Jackson explained that he had talked with Don Ford and is being held up due to the power line issue on 5th Street and believes that the Council needs to make a decision on what to do with the power lines to not hold up any progress. He admitted that he can not vote on the decision because his property borders the 5th Street alley and that he would benefit from the lines being dropped. Bob Hart asked if the underground utilities be sleeved to be done at a later date. Torry Hessman thought it may be a possibility but that would be up to Council Member Cotton moved to sleeve it if possible, Council Member Atkinson seconded, motion carried with one abstention Council Member Jackson.

VIII. APPROVAL OF BILLS – Upon motion duly made, the bills were approved.

IX. ADJOURNMENT – Council Member Jackson moved to adjourn the meeting, Council Member Holt seconded, unanimously approved, meeting adjourned at 7:10pm.

**Ross Aragón
Mayor**

**PAGOSA SPRINGS SANITATION
GENERAL IMPROVEMENT DISTRICT MINUTES
TUESDAY, AUGUST 5, 2008
5:00 P.M.**

- X. CALL MEETING TO ORDER** – Mayor Aragon, Council Member Atkinson, Council Member Cotton, Council Member Holt, Council Member Jackson, Council Member Weiler
- XI. APPROVAL of MINUTES FROM JULY 1 and JULY 17, 2008** – Minutes approved as read.
- XII. DELEGATIONS**
- XIII. NEW BUSINESS**
- 1. Ordinance No. 2008-04, Inclusion of 25 properties in the Sanitation District to be known as the Harman Park Inclusion** – The 71.39 acres, 25 properties including the Harman Park and three additional properties located in Pagosa Alpha Subdivision, to be included in the Sanitation District. The district will receive additional revenue from the assessed valuation of properties within the district. Council Member Holt moved to approve the first reading of Ordinance No. 2008-04, including 25 properties into the Pagosa Springs Sanitation General Improvement District, Council Member Jackson seconded, unanimously approved.
 - 2. Hickory Ridge Line Extension Agreement** – Opportunity Builders, the applicant for Hickory Ridge Apartment Project, would like to connect to an existing sewer main line that runs in Florida Street in front of their property. Council Member Jackson moved to approve the LEA for 49 Hickory Ridge Apartments as proposed, Council Member Atkinson seconded, unanimously approved.
 - 3. Ordinance No. 2008-05, Approving a Loan Between the CWRPDA and the District** - This ordinance is necessary to approve a loan between the Colorado Water Resources and Power Development Authority and the District, acting as the Wastewater Activity Enterprise, for the purpose of financing a portion of the cost of constructing a new water treatment plant. The ordinance language authorizes the form and the execution of the loan agreement and the payment of the loan from the revenues of the Wastewater Activity Enterprise. The amount of the loan is \$2 million with a term of 20 years at a rate of 1.857% per annum and guarantees the payoff of a 2002 loan to CWRPDA in the amount of \$161,948.01. Council Member Holt moved to approve the first reading of Ordinance No. 2008-05, approving a loan between the Colorado Water Resources and Power Development Authority and the District, Ordinance No. 05, an ordinance of the Town of Pagosa Springs Sanitation General Improvement District Wastewater Activity Enterprise approving a loan between the Colorado Water Resources and Power Development Authority and the District, acting by and through the Wastewater Activity Enterprise, for the purpose of financing a portion of the cost of constructing a new water treatment plan; authorizing the form and execution of a loan agreement and a governmental agency bond evidencing the loan; providing for payment of the governmental agency bond from revenues of the Wastewater Activity Enterprise; authorizing the early payment of the district's 2002 loan from the Colorado Water Resources and Power Development Authority; and prescribing other details in connection therewith, Council Member Cotton seconded, unanimously approved.
 - 4. Resolution 2008-03, Adopting a revised rate schedule for service and plant investment fees** – The CWRPDA is requiring for the execution of its \$2 million loan that the rates be set at \$37.50 per month. This is an increase in the Red Oak and previous CWRPDA covenants due to a recent recalculation of plant costs that indicated an increased cost from \$4.3 to \$5.3 million for construction. Without this increase, the CWRPDA would not allow us the \$2 million loan for the treatment plant. Council Member Atkinson moved to approve the second reading of Resolution 2008-03, implementing sewer rate increases and amending its rules and regulations, Council Member Jackson seconded, unanimously approved.
- XIV. OLD BUSINESS**
- 1. Ordinance No 2008-03, (second reading) Amending the East Highway 160 District Inclusion** – Ordinance No. 03, Series 2008 amends portions of Ordinance No. 04, series 2007 and Ordinance No. 02, Series 2008 to address legal description errors received from the assessors office and to further clarify certain lands that were intended to be included into the District. Council Member Jackson moved to approve the second reading of Ordinance No. 03, Series 2008, granting the Laverty petition for inclusion of real property into the boundaries of the district and amending portions of Ordinance No. 04, Series 2007 and Ordinance No. 02, Series 2008, Council Member Atkinson seconded, unanimously approved.
- XV. DEPARTMENT HEAD REPORT**
- 1. Supervisor Report** – June's flows were .238 MGD on average and a 95% removal rate for BOD with no violations. The decommissioning of the existing treatment plant will take place in the spring of 2010. Phil Starks asked for authorization from the board to allocate approximately \$200,000 in the 2010 budget, for clean up of the decommissioned treatment

plant.

XVI. APPROVAL OF BILLS – Upon motion duly made, bills were approved.

XVII. ADJOURNMENT – Upon motion duly made, the meeting was adjourned at 7:50pm