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TOWN COUNCIL MEETING MINUTES
TUESDAY, MAY 3, 2016
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 p.m.

- I. **CALL MEETING TO ORDER** – Mayor Volger, Council Member Bunning, Council Member Egan, Council Member Lattin, Council Member Patel, Council Member Schanzenbaker
- II. **PUBLIC COMMENT** – Mr. Cody Ross, owner of the Carquest business, said McCabe Creek is a major project for the downtown district. He said the access to his building will be greatly impacted and his business will be impacted during this construction timeframe. His property has not been considered for purchase by CDOT. Mr. Kirby Ross said he has a piece of property under contract on Eagle Drive west of the Pagosa Tire center. He said the plat that dedicates a public right-of-way is invalid as recorded. He would like the Town Council to assure the land owner that the improvements proposed by CDOT, the Town and County along Eagle Drive to connect to Pike Drive will not be passed on to the property owner when he gets ready to develop the site. Mr. Bill Hudson would like to have a public report on the PAGWPA drilling.
- III. **CONSENT AGENDA**
 1. **Approval of the April 21, 2016 Meeting Minutes**
 2. **Letter of Support for County's FLAP Application (Piedra Road)**
 3. **Community Center Fee Waiver – Homebuyer Classes by The Homes Fund** - The Alliance is requesting a waiver of fees for use of the Community Center and the AV equipment for a Power Point presentation. The first class will be on June 18th and it is hope to have a total of classes in calendar year 2016. Also, the Alliance intends to use local professionals for the classes where possible. Council Member Lattin moved to remove item 1 from the consent agenda and approve the consent agenda items 2 and 3, Council Member Bunning seconded, unanimously approved. Council Member Lattin said section seven, council ideas and comments, reads that she was having difficult time with the 8th Street project due to the design not including sidewalks on both sides. She said her difficulty with the project is that spending the large sum of money and the full impact of it is just getting a 10 foot sidewalk on the other side and possibly some street lights. The Town Clerk will make the correction to the minutes. Council Member Lattin moved to approve with the changes specified, the meeting minutes for April 21st 2016, Council Member Schanzenbaker seconded, unanimously approved.
- IV. **NEW BUSINESS**
 1. **Demolition Permit for Shed Structure within Historic District located at 434 Pagosa Street** - The Historic Preservation Board approved the application for exterior alteration for the property located at 434 Pagosa Street, Overlook Spa. The applicant, Jeff Greer, has requested the demolition of the shed structure on the property, stating the necessity for the construction of the new outdoor bathing tub area. Council Member Lattin said that requiring the applicant to supply the historic preservation board with photos and a narrative of the old saw shed prior to demolishing the shed. She would prefer the preservation board take the photos and select the materials the board would like

preserved. Mr. Jeff Greer said he has agreed to get the pictures and narrative together for the preservation board. Council Member Schanzenbaker moved to approve the application for demolition of the shed structure located within the Historic District at 434 Pagosa Street finding the demolition application meets the criteria as set forth by LUDC sections 8.6.3.a, b and c, contingent on the applicant providing a recordation consisting of photographs, a written description of the construction style and materials of the shed structure and a narrative of its known historic uses to be submitted to the Historic Preservation Board prior to demolition, Council Member Egan seconded, unanimously approved.

- 2. Ordinance 842, First Reading, Accepting Lands from PSSGID for South 5th Street Right of Way** - A portion of South Fifth Street south of the northern boundary of the Town Streets Department shop, exists under a prescriptive right. This portion of Fifth Street is south of the originally platted Town boundary established in 1891 and has not been formalized as public right of way. There are four portions of land that are needed to formalize the Fifth Street Right-of-way from the Town Shop to the JEM properties, LLC land at the end of Fifth Street. The four portions are the developed portion of Fifth Street directly in front of the Town Streets Shop, the developed portion of Fifth Street along Yamaguchi Park and the undeveloped portion of land along the School Transportation Facility, a swath of land east of the transportation facility belonging to the Sanitation District, which will allow the continuance of the 80-foot width of public right-of-way around the transportation facilities encroachment into the 80-foot access easement, and a swath of land between the fence line and actual property line at the southern boundary of the school district property and JEM Properties, LLC. Parcel. Council Member Bunning moved to approve the first reading of Ordinance 842, an ordinance of the Town of Pagosa Springs accepting properties from the Town of Pagosa Springs General Improvement District Wastewater Activity Enterprise, Council Member Lattin seconded, unanimously approved.
- 3. Ordinance 844, First Reading, Accepting Land from Archuleta School District for South 5th Street Right-of-Way** - A portion of South Fifth Street south of the northern boundary of the Town Streets Department shop, exists under a prescriptive right. This portion of Fifth Street is south of the originally platted Town boundary established in 1891 and has not been formalized as public right of way. There are four portions of land that are needed to formalize the Fifth Street Right-of-way from the Town Shop to the JEM properties, LLC land at the end of Fifth Street. The four portions are the developed portion of Fifth Street directly in front of the Town Streets Shop, the developed portion of Fifth Street along Yamaguchi Park and the undeveloped portion of land along the School Transportation Facility, a swath of land east of the transportation facility belonging to the Sanitation District, which will allow the continuance of the 80-foot width of public right-of-way around the transportation facilities encroachment into the 80-foot access easement, and a swath of land between the fence line and actual property line at the southern boundary of the school district property and JEM Properties, LLC. Parcel. Council Member Schanzenbaker moved to approve the first reading of Ordinance 844, an ordinance of the Town of Pagosa Springs accepting property from the Archuleta School District Joint 50, Council Member Bunning seconded, unanimously approved.
- 4. Ordinance 845, First Reading, Granting Franchise Agreement to Kathryn Young dba At Your Disposal** – This item tabled.
- 5. Hot Springs Pedestrian Bridge Purchase Order** - Despite not receiving the GOCO award, staff have worked on providing cost effective solution for the acquisition of the new bridge. In addition to the pending sale of the old bridge of about \$30,000, staff negotiated with the manufacturer, Big R Bridge, to obtain the new bridge at their cost or \$97,625. The cost of the bridge will be approximately \$67,625. Council Member Lattin asked about a warranty and would like a bridge that can hold a four wheeler the parks crew can use to clear snow. Town Manager Schulte said the increase to hold a four-wheeler or skidsteer might increase the cost of the bridge. Staff will find out from the manufacturer if the bridge could hold a skidsteer and warranty items. Staff anticipates that the bridge replacement will take place after Labor Day to minimize the impact on tourism activity. Mr. Mark Weiler suggests the engineer and attorney agree to take the

liability of a bridge that may be compromised. He said more aggressive negotiations with Big R Bridge who should assume liability for the engineering of the bridge. Council Member Egan and Schanzenbaker are wondering about the responsibility of the failure and would like to know if the bridge can withstand the next few months while the new bridge is being built. Staff will contact the engineer and attorney to get the information on liability and possible negotiations or litigation. Council Member Egan moved to table the item for one month, Council Member Schanzenbaker seconded, unanimously approved.

6. **CD Investment Update and Direction** - Council Member Lattin recused herself from this item and left the room. On January 21, 2016, the Town Council approved authorizing staff to work with UMB Bank to invest \$1.4 million in General and Sanitation district funds within a portfolio. Staff worked to set up the account documentation with UMB Bank. Once the account was set up and the investment was set to occur, the potential yield was outside of the 5 basis points of 1.02% and therefore was outside of the authority given by Town Council. At this time, none of the \$1.4 million has been invested yet and currently resides in the Town cash account that earns 0.35% at 1st Southwest Bank. Some sizable capital projects may be of consideration to buy down those capital projects with these funds. Council Member Schanzenbaker said that it may be time to consider doing something with the funds to the proposed projects. Council Member Bunning said the Town has a responsibility to invest the funds wisely, he suggests holding the funds locally until such time as the capital projects are bid and a decision can be made to pay down the project costs. Council Member Bunning moved to suspend investment activities for a period of six months, Council Member Patel seconded, unanimously approved.
7. **South 8th Street Construction Local Preference** - Davis Engineering is preparing to advertise for construction bids for the South Eight Street reconstruction project. Bid opening is expected on May 20th and a bid abstract will be available for Town Council that afternoon. Given the magnitude of the potential an approximate \$2 million construction project, it is recommended that Town Council approve the percentage level of local contractor preference for this project. The local preference for the Lewis St project was 2.5% and for the Piedra St project it was 5%. By applying a local preference, the Town is indicating it is willing to an amount above what might be a low bid to demonstrate a preference for local contractors. If the contract award is approximately \$2 million and the Council decides to apply a 2% preference, then the Town could pay an extra \$40,000 by accepting the local bidder. Council Member Schanzenbaker said that a local preference could discourage out of the area bidders. Council Member Bunning moved to approve that a 2% Local Contractor Preference be included in the South Eighth Street construction bid package, Council Member Patel seconded, unanimously approved.

V. OLD BUSINESS

1. **Ordinance 839, Second Reading, Temporary Moratorium on Licensing Marijuana Establishments** - The Town Council is authorized to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law, and provide for the enforcement of such Ordinances. In 2015 by Ordinance No. 825 (Series 2015), the Town adopted specific standards and procedures for local licensing of marijuana-related businesses and establishments. At the April 6th meeting there were significant discussions about the original intent of the Ordinance and how to administer the 70/30 rule provided for in the Ordinance in regards to the sourcing of bud leaf product for sale. The Town Council has asked Town staff to study whether certain amendments to the requirements in Article 6 of the Town Code for marijuana-related businesses and establishments are necessary and appropriate, including but not limited to the requirement for marijuana establishments to obtain 70% of their marijuana inventory from a cultivation facility located within Archuleta County. Town Council approved the first reading of Ordinance 839 at the April 21st meeting removing the proposed section 1.e. and amending the proposed time period to September 6, 2016. Mr. Bill Hudson said a local vendor used a non-approved pesticide to fight spider mites. He

said the law regarding this pesticide only came into effect in November 2015. He said the laws and rules change constantly and to require the business people to produce 70% on a monthly basis would put people out of business. He said the council should not require the 70% for those struggling to stay in business. Mr. Mark Weiler supports what Mr. Hudson says. He said there are financial disasters that are pushed on businesses by governments. The 70% requirement is not appropriate and should be removed from the ordinance. Council Member Bunning moved to approve the second reading of Ordinance 839 to place into effect a temporary moratorium suspending the processing of all applications for marijuana-related businesses and establishments within Town limits until September 6, 2016, Council Member Egan seconded, unanimously approved.

- VI. PUBLIC COMMENT** – Mr. Mark Weiler said he asked the council to consider allowing the streets superintendent to weigh in on how he would spend \$2 million on paving projects and maintenance issues. He complimented Council Member Bunning for keeping the Town’s finances local. Mr. Bill Hudson thanked Council Member Lattin for asking the questions regarding warranties on bridges and tabled the investment of the funds that could be used to offset high interest payments. He would like to hear more information about the 17 assertions the community made at the Springs Partners property public meeting.
- VII. COUNCIL IDEAS AND COMMENTS** - Council Member Bunning has been considering the County’s development of the building. He is frustrated that the Town hasn’t been involved in the County meetings and suggests asking the County to include the Town in the discussion.
- VIII. NEXT TOWN COUNCIL MEETING MAY 19, 2016 AT 5:00 PM**
- IX. ADJOURNMENT** – Upon motion duly made, the meeting adjourned at 6:42pm.