



551 Hot Springs Boulevard
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**TOWN COUNCIL MEETING AGENDA
TUESDAY, MAY 5, 2015
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 p.m.**

Town Council meets at 4:30 p.m. at the 6th Street Pedestrian Bridge – Ribbon Cutting

**** CONVENE TOWN COUNCIL MEETING AT TOWN HALL AT 5:00 P.M. AFTER RIBBON CUTTING****

- I. **CALL MEETING TO ORDER**
- II. **PUBLIC COMMENT** – *Please sign in to make public comment*
- III. **CONSENT AGENDA**
 1. **Approval of the April 23, 2015 Meeting Minutes**
 2. **Liquor Licenses**
 - a. **Tastings Permit Renewal – Shabri LLC dba Plaza Liquor at 551 San Juan Street Ste A**
 - b. **Tastings Permit Renewal – Mountain Spirits at 135 County Center Drive Ste F**
 - c. **Special Events Liquor Permit – Rocky Mountain Elk Foundation Fundraiser June 6, 2015 at the Ross Aragon Community Center 451 Hot Springs Blvd.**
 3. **Clean Up Week Proclamation**
- IV. **NEW BUSINESS**
 1. **Lease Agreement with Archuleta Seniors Inc for Space at Community Center**
 2. **Piedra Street Paving Contract Award**
 3. **Community Center Gym Floor Installation Contract Award**
 4. **Cargo Shipping Container Use and Placement Regulation Considerations**
 5. **Resolution 2015-07, Revising Design Guidelines for Historic District and Listed Properties**
 6. **Ordinance 825, First Reading, Marijuana Establishment Licensing and Regulations**
- V. **PUBLIC COMMENT** – *Please sign in to make public comment*
- VI. **COUNCIL IDEAS AND COMMENTS**
- VII. **NEXT TOWN COUNCIL MEETING MAY 21, 2015 AT 5:00 PM**
- VIII. **ADJOURNMENT**

**Don Volger
Mayor**



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**TOWN COUNCIL MEETING MINUTES
THURSDAY, APRIL 23, 2015
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 p.m.**

- I. **CALL MEETING TO ORDER** – Mayor Volger, Council Member Alley, Council Member Bunning, Council Member Egan, Council Member Lattin, Council Member Patel, Council Member Schanzenbaker
- II. **PUBLIC COMMENT** – Mr. Mike Musgrove, chairperson of Parks and Recreation, said that a public meeting was held in April for interest in finishing phase two of the skate park. He said the skater’s coalition has \$40,000 they have raised for match. He urged council to support a GOCO grant for the skate park or to find funds to help pay for the second phase. Phase two is estimated at \$153,000.
- III. **CONSENT AGENDA**
 1. **Approval of the April 7, 2015 Meeting Minutes**
 2. **Approval of March Financial Statement and Accompanying Payments**
 3. **Liquor Licenses**
 - a. **Liquor License Transfer – H&R license transfer from Nello’s Bistro to Side Street Sushi at 135 Country Center Dr. # 9 & 10 Pagosa Springs**
 - b. **Liquor License Renewal – Formusa LLC dba Ajia Asian Cuisine & Spirits at 180 E Pagosa St.**
 - c. **Special Events Liquor Permit – FolkWest Inc. Pagosa Folk ‘N Bluegrass Festival June 5, 6, & 7 at Reservoir Hill Park**
 - d. **Special Events Liquor Permit – Friends of the Upper San Juan River, River Dayz Event May 16 at the Town Park on Hermosa St.** - Council Member Lattin moved to approve the consent agenda, Council Member Alley seconded, unanimously approved.
- IV. **REPORTS TO COUNCIL**
 1. **Featured Department Head Reports**
 - a. **Public Works Department** - Streets Department continues to take care of daily street projects, pot holes, and sign reflectors, lights. The alleys and Piedra Estates were all bladed, and staff continues to work on the parking area behind the post office. Majestic Drive received several thousand dollars worth of gravel. Staff removed all winter implements from equipment and worked on rebuilding the sweeper head. The completed traffic control for the Main Street sidewalk project. Staff was responsible for removing limbs, cutting pavement, removing and hauling concrete off the project in preparation for the new sidewalk installation. The geothermal system is running normally with .7 gallons per minute leakage. The Council thanked the department for doing a great job on the sidewalk project. Council Member Lattin asked about the Town shop needs. Public Works Director Gallegos said the shop upgrades needs have been placed on a seven year capital plan for over twenty five years, upgrades to the shop need to be completed when it can be budgeted.
 - b. **Police Department** - The officers have been attending training including interactive

judgement and use of force firearms, and POST training relating to Marijuana enforcement. Recruitment continues and a new officer began mid-April, Warren Brown has twenty years experience coming from Montrose, Colorado. Trish Padian is the new administrative assistant for the department. The radar speed trailer has been utilized at high traffic areas throughout the community. This has been an effective tool in assisting motorists with voluntary speed compliance. The police will be at the Walmart this weekend for child identification kits, dog tracking demonstrations, and more.

2. **Sales Tax Brief** - The February 2015 sales tax revenue showed an increase of 28% compared to February 2014. Total sales revenue for February 2015 was \$273,348, compared with February 2014 receipts of \$214,365. This increase is a bit misleading as about ½ of the increase (about \$63,000) of the increase resulted from collections by the State from vendors related to prior periods. Still, with those factored out the February 2015 increase was significant at +13.2%. The state has not been given us the sales tax funds directly yet, we are patiently waiting and receiving it from the County without any fees.
3. **Lodgers Tax Brief** – The committee is changing their name from the Town Tourism Committee to Visit Pagosa Springs. February lodgers tax data is still incomplete, but March sales look to be down 3.7% with a few property reports outstanding. The Director of Tourism attended the DMAI Marketing Innovation Summit April 15th - 17th in San Francisco. The Summit is a 3-day working meeting with industry professionals in similar roles to brainstorm and explore innovative ways to promote destinations. The new Travel Planner is nearly complete and is currently being reviewed by the Visit Pagosa Springs Board. The new piece will go to print by end of April, with distribution beginning in early May. The traffic counters at the visitor center will help establish a new base and assist with volunteer scheduling.

V. NEW BUSINESS

1. **Community Development Corporation Funding Request** – Council Member Alley recused himself from discussion and vote since part of the CDC funding will be paid to the Chamber of Commerce which he is an employee of. Council Member Alley left the room. After several meetings and modifications, the Transition Team, CDC Board, and Region 9 members feel the CDC is now in a position to operate effectively and is requesting Board participation and funding from the Town of Pagosa Springs. The CDC is requesting the Town designate a representative to serve on the CDC Board and commit up to \$20,000 in support funding for calendar year 2015. He said the CDC has asked for 1/3 of the 1st quarter costs to the CDC. The County will pay 1/3 and the CDC will cover the other 1/3. The fees include payment for administrative costs to the Chamber of Commerce of \$1,200 per month, accounting services, legal services to write the by-laws, Region 9 and SBDC fees for administration and sponsorship. The CDC has been ramping up with the Chamber to take on longer term products like collecting data for benchmarking, and partnering to bring \$85,000 into the community for micro-loans to businesses in the community. The CDC doesn't have any staff so the overhead is very low. Council Member Lattin asked about relocation of new businesses or local businesses. Mr. Cox said business retention and growth of the local businesses is their focus right now, they have not had a lot of leads for new businesses relocation into the town. He said the Chamber is working as a concierge for businesses getting their needs met. They are planning to come quarterly for progress reports and invoicing. The county appointed Commissioner Whiting to sit on the board. The council will decide on a representative at the May 5th meeting. Council Member Schanzenbaker moved to approve the Town of Pagosa Springs' financial contribution to the CDC for the first quarter in the amount of \$3,394.98, Council Member Patel seconded, unanimously approved.
2. **Trujillo Road Construction Contract Change Order** - The County Public Works department intends to reconstruct a significant portion of the paved section of Trujillo Road (County Road 500). The Town limits end just west another 1,300 linear feet from S. 10th Street and Trujillo Road, to what is known as the Putnam Annexation. A change order to the County's original scope of work could be added to incorporate paving of the Town's portion of the road. The estimated cost for the additional 1,900 linear feet of roadwork to resurface Trujillo from the town limits all the way to S. 8th Street and Apache Street is \$340,835. This street was not

budgeted in 2015, however funds from the 5 year street maintenance line item of \$217,000 and reductions in the estimate for repaving Piedra Street might be enough to cover the costs. Public Works Director Gallegos said it is a good idea to take advantage of this option with a contractor already selected and completing the county portion. He said Trujillo is a heavily used road and is deteriorating quickly, he said switching fund from 10th Street to this road is appropriate because of the circumstances. Hammerlund is also hoping to piggy-back on this County project to replace the part of the road from the transfer station to the bottom of the hill that they will excavate during the pipeline construction. Council Member Bunning moved to approve the Town's participation in the County's Trujillo Road Project to reconstruct 1,900 linear feet at the estimated cost of \$340,835 with \$217,000 in funding coming from the 5-Year Maintenance Plan line item, approximately \$111,000 coming from un-obligated funds from the Piedra Street Construction Project, and the balance of approximately \$17,000 coming from Capital Fund Reserves, Council Member Alley seconded, unanimously approved.

VI. OLD BUSINESS

- 1. Marijuana Cultivation** - Council Member Bunning said he has had conversations individually with each council member and he gets the general feeling that main street in downtown is not appropriate for a marijuana business. Council Member Alley said there is an area corridor in downtown that should not have shops. The first reading of the ordinance presented on May 5th will reflect decisions and buffers made by council. Council Member Schanzenbaker would like to see the map with the conditional use permits. Planner Dickhoff said from 1st Street and 15th Street with the exception of a portion of Hot Springs Blvd, there are no lots available along the Highway. Council Member Bunning said the residents don't want to see shops along Main Street in downtown. Archuleta County has adopted regulations that require at least 70% of the marijuana sold in Retail and Medical establishments to be cultivated on the same site as the retail/medical sales establishment. It appeared there was the general opinion among council that allowing off-site cultivation may allow for more flexibility of potential marijuana sales establishment location opportunities. The Town's LUDC currently allows Commercial greenhouses as a use by right in the Mixed-Use Corridor (MU-C), Commercial (C) and Light Industrial (LI) zone districts. The LUDC allows commercial greenhouses with a Conditional Use Permit (CUP) in the Mixed Use –Town Center (MU-TC), Mixed Use Residential (MU-R) and Agricultural/Residential (RA) zone districts. The local shops in the county like the 70% requirement of being grown in the county. Council Member Bunning wants to keep the growing in the county, but doesn't think it is practical that a business is going to be able to grow 70% on sites within town limits. He said a modification to require 70% be grown in Archuleta County, the county would have to change to allow sites as grow facilities. Mr. Bill Delaney said that for retail he would love to have a second storefront in town limits. Council Member Alley moved to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision requiring at least 70% of marijuana be cultivated within Archuleta County, Council Member Patel seconded, unanimously approved.
- 2. Marijuana Licensing Public Hearing** - Archuleta County has adopted regulations that designate the Board of County Commissioners as the licensing authority for the county. The Town Council recently approved setting themselves as the licensing authority for the Town. The county regulation requires a public hearing for the consideration of issuing licenses in section 7.02. The LUDC would require posting 15 days public hearing, mailing to all businesses within 300 feet of proposed site, posting in paper and on property. Council Member Schanzenbaker moved to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision requiring a public hearing, consistent with alcohol establishment business licensing applications, for considering Marijuana Establishment business license applications, Council Member Egan seconded, motion passes with three nays (Mayor Volger, Council Members Bunning and Lattin).
- 3. Marijuana Fees** - The fee categories are fairly standard and since it was expressed the Town would like to model the County Ordinance, it is suggested that the Town use the fee categories adopted by the County as a starting point. The Town will need to amend its fee schedule to reflect the actual costs. The categories are application and license fee, operating and late fees,

license transfer, and business name change fees, corporate structure changes and modification of premises fees. Council Member Schanzenbaker said another town had a sliding scale for the first, second, and third licenses going up in costs. Council Member Egan moved to direct staff to incorporate into the proposed Town medical and retail marijuana ordinance, in a proper format, a section describing and defining fees associated with the administration of the retail and medical marijuana ordinance similar to Part XII of County Ordinance 12-2014, Council Member Patel seconded, unanimously approved.

- 4. Marijuana Background Checks** - Archuleta County has adopted regulations that require the Authority to determine the good moral character of the applicant. To complete this they receive criminal history reports through CBI on all employees, owners and members, and managers. They also require individual history reports completed and copies of drivers license. Copies of the State issued badges might be a recommendation as well. The County Attorney reviews these backgrounds and approves internally. The State of Colorado requires all owners, stockholders, and employees to apply for a MED Medical or Retail Marijuana Business License. As part of the State Marijuana License Application, an Investigation Authorization and Release of Information form is completed by the applicant authorizing the Marijuana Enforcement Division to conduct a complete investigation into personal background, financial records, tax filing records, and criminal history. This includes FBI, CBI, CCIC, child support and student loan checks. Key Associates holding an interest in the business, officers, directors, as well as support staff and employees are required to complete applications and obtain badges from the State. Council Member Bunning would like to have the information provided on backgrounds each year. Council Member Patel agrees with Council Member Bunning. Council Member Bunning suggests having the police department review the annual background, Council Member Alley and Lattin agree. Mr. Bill Hudson said there is a cost to being very diligent when something else will be reviewing the files like the state. Council Member Egan asked about the definition of good moral character. Council Member Bunning said if the police department is doing the background and knows that a person is neglecting his children, they might be brought to the authority to discuss their moral character. Council Member Alley moved to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision requiring the Authority to conduct a background checks of owners and employees to make a finding as to the good moral character of the applicant similar to the County's ordinance provisions, Council Member Patel seconded, unanimously approved.

- VII. PUBLIC COMMENT** – Mr. Bill Hudson said a comment was made on the GGP being funded by government grant funding, he encourages the Town to take a lead in the greenhouse project. He said there should be public discussions for what the public wants to see happen with the project.
- VIII. COUNCIL IDEAS AND COMMENTS** - Council Member Alley said a person on Elwood Pass would like a letter of support from the council for his business. Council Member Egan suggests the CDC get involved and Jason Cox said they are willing to help. Council Member Alley would like to look into helping the skater's coalition to finish the skate park phase two. Town Manager Schulte said the council did agree to allocate \$32,000 for a GOCO grant in 2014, but once the grant was denied the funds were removed from the final 2015 budget. The next cycle for GOCO will be in the fall for construction in 2016. A joint town/county extended meeting is to be held April 28th at the county offices from 8am to 1pm. The meeting will focus on five items to work on jointly and options for getting them completed. A ribbon cutting ceremony will be held on May 5th at 4:30pm at the new pedestrian bridge.
- IX. NEXT TOWN COUNCIL MEETING MAY 5, 2015 AT 5:00 PM**
- X. ADJOURNMENT** – Upon motion duly made, the meeting adjourned at 7:10pm.

**Don Volger
Mayor**



A Proclamation by the Town Council of the Town of Pagosa Springs

CLEAN-UP WEEK 2015 PROCLAMATION

WHEREAS, a clean and orderly Town instills a sense of community pride in its residents, and portrays a favorable image to its visitors; and

WHEREAS, the economic development and economic future of Pagosa Springs is linked to its picturesque beauty and community pride and appearance; and

WHEREAS, the citizens of Pagosa Springs have made tremendous strides in the improvement of the Town over the past two decades; and

WHEREAS, the Town Council is emphatically committed to the continued enhancement of Pagosa Springs; and

WHEREAS, the continued cooperation of the citizens, Town of Pagosa Springs, Archuleta County, and service groups will assist in creating a clean environment and healthy community; and

WHEREAS, the Town of Pagosa Springs is providing the citizens of the Town an opportunity to drop-off waste material at the Town Shop on South 5th Street,

THEREFORE, On behalf, of the Town Council of Pagosa Springs, I, Mayor Don Volger, hereby proclaim Monday May 11th through Saturday May 16th as Pagosa Springs Clean-Up Week 2015.

Signed

Attest

Don Volger, Mayor
Pagosa Springs, Colorado

April Hessman, CMC
Town Clerk



AGENDA DOCUMENTATION

NEW BUSINESS: IV.1

PAGOSA SPRINGS TOWN COUNCIL

MAY 5, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: LEASE AGREEMENT WITH ARCHULETA SENIORS, INC. (ASI) FOR SPACE AT THE COMMUNITY CENTER

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

Archuleta Seniors, Inc. (ASI) currently leases space at the Ross Aragon Community Center where they provide various senior programs and congregant meals. The previous lease agreement was between ASI and the Community Center Coalition. The previous lease agreement expired on December 31, 2014 and ASI has been going month-to-month since then. The current rent payment is \$2,618.76 per month.

Attached for Council consideration is a one year lease agreement between the Town and ASI. The pertinent terms of the agreement are:

- A monthly rent of \$2,618.76
- A lease period of one year: May 5, 2015 to May 4, 2016
- Same leased premises
- Maintenance responsibilities the same
- Janitorial responsibilities the same

ATTACHMENTS:

- Proposed Lease Agreement

FISCAL IMPACT

The Town has budgeted to receive rent from ASI in 2015 for a full year and this represents a total of \$31, 425.12 of the total annual rent expected from the Community Center of \$46,235. The other rent comes from the Grace Church, AAA, BOCES, and the County on behalf of Veteran Services.

RECOMMENDATION

It is recommended the Town Council, by motion:

“Authorize the Mayor to sign a lease agreement with Archuleta Seniors, Inc. for space at the Ross Aragon Community Center for a period of one year and a monthly rent of \$2,618.76.”

LEASE AGREEMENT

This Lease Agreement is entered into as of this _____ day of _____, 2015, by and between the Town of Pagosa Springs (hereinafter “Lessor”) and Archuleta Seniors, Inc. (hereinafter “Lessee”).

I. GENERAL PROVISIONS

1. **Premises.** Lessor, for an in consideration of the covenants and agreements hereinafter set forth, has leased, and does hereby lease unto said Lessee the space described as follows:

3249 Square Feet in the Ross Aragon Community Center, located at 451 Hot Springs Boulevard, Pagosa Springs, CO 81147.

See the attached Exhibit A, hereby incorporated by reference, for an itemized breakdown of the leased premises.

2. **Rent.** Rent shall be charged in the amount of \$2,618.76, payable in advance, in equal monthly installments due on the 15th day of each month during the term of this Lease Agreement. The total amount of rent due for the term of this Lease Agreement is \$31,425.12. Rent payments shall be made to Greg Schulte, Town Manager, at 551 Hot Springs Boulevard, Pagosa Springs, CO 81147, or at such other place as Lessor may designate in writing.
3. **Acceptance.** Lessee does hereby accept the subject property at the rent set forth in this Agreement, and subject to the terms and conditions contained herein.
4. **Use.** Lessee shall use and occupy the subject premises for the purpose of maintaining a Senior Center, and for other purposes consistent with the Colorado Nonprofit Corporation Act, C.R.S. § 7-121-101, *et seq.* The Senior Center shall

operate on core hours of 7:00am-4:30pm Monday-Thursday and 7:00am-3:30pm on Fridays. Lessee may operate the facilities after those core hours; however, Lessor shall reserve the right to lease dining room after Lessee's core hours, but shall furnish written notice no later than thirty (30) days prior to the date on which the dining room is leased to another party. Such notice shall be tendered in writing to Cheryl Wilkinson of Archuleta Seniors, Inc., during regular business hours, at 451 Hot Springs Blvd., Pagosa Springs, CO 81147.

5. **Term.** The term of this lease shall be one (1) year, commencing at 12:01am on the _____ day of _____, 2015.

6. **Holdover and Termination.** The parties hereto may elect to extend this Agreement upon such terms and conditions as may be agreed upon in writing and signed by the parties at the time of any such extension.

If such an extension has not been agreed upon and Lessee remains in the premises after the expiration of the lease term, Lessee shall become a month-to-month holdover tenant at the same rental rate.

If Lessee desires to terminate this lease agreement at the end of the term or as a holdover tenant, Lessee shall give written notice at least one (1) month prior to Lessee's intended termination date. If Lessor desires to terminate this lease agreement at the end of the term or during Lessee's holdover tenancy, Lessee shall give written notice at least ninety (90) days prior to Lessor's intended termination date.

7. **Maintenance.** Lessee shall keep the premises in good condition and will abide by all state and local regulations in occupying the premises. At the expiration of other termination of this Lease Agreement, Lessee shall surrender and deliver the premises in the condition in which Lessee received the premises, minus ordinary wear and tear and damage caused by elements beyond Lessee's control including

but not limited to fire, flooding, or other natural disaster. Lessee shall, however, be liable for damage due to Lessee's negligence or failure to perform an obligation under this Agreement.

All other repairs and maintenance of the premises and the property on which the building is located shall be the responsibility of the Lessor including, but not limited to, landscaping, snow removal, lighting, parking lots, kitchen drains, drainage, exterior structural issues, HVAC systems, and plumbing.

If an act of God or other casualty renders the premises unusable for Lessee's purposes, the Lessee shall have the right to terminate this Agreement within thirty (30) days of such damage upon written notification to Lessor. Rent payments shall be prorated as of the date of termination of this Agreement. Lessee may choose to keep this Agreement in place in such a situation, however Lessee shall not be liable for prorated rent for the period of time Lessor spends making repairs to the premises.

8. **Janitorial Services.** Janitorial services are the responsibility of the Lessor and include, but are not limited, to vacuuming, shampooing carpets, removal of trash, and sweeping and mopping the dining room floors.
9. **Assignment and Subletting.** Lessee shall not sublet or assign its interest in the subject premises or any part thereof, or transfer possession or occupancy thereof to any person or corporation without the prior written consent of Lessor.
10. **Alterations.** Lessee will not make any structural alterations, installations, or improvements to the subject property without the prior written consent of Lessor. Lessor will not make any material alterations, installations, or improvements to the subject property without the prior written consent of Lessee.

11. **Lessor's Access.** Lessee shall allow Lessor through its agents or employees to enter the premises at reasonable times to examine, inspect, or protect the premises or prevent damage to the premises, or to make repairs as Lessor may deem necessary.
12. **Parking.** The Lessee shall have the non-exclusive use of parking space in common with the Lessor, other tenants of the Community Center, and their guests and invitees during the lease term. The Lessee shall have the use of non-reserved common parking areas, driveways, and footways, subject to the rules and regulations as prescribed from time to time by Lessor.
13. **Rules and Regulations.** Lessee shall not use the premises in any way that violates federal, state, or local laws and regulations. Violation of this provision shall be sufficient cause for termination of this Agreement.
14. **Utilities.** Lessee shall be responsible for internet and phone service for Lessee's office. All other utilities including, but not limited to, water, electricity, natural gas, and sewer charges, shall be the responsibility of Lessor.
15. **Property Taxes.** Lessor shall pay all general real estate taxes and installments of special assessments coming due on the premises during the term of this Agreement, and all property taxes on the Lessor's property at the premises. The Lessee shall pay all property taxes on its property at the premises.
16. **Default.** DEFAULT: If Tenant shall fail to pay rent when due, or perform any term hereof, after not less than ten (10) days written notice of such default given by personal service, email or US Postal Service Mail (effective when mailed), unless Tenant, within said time, shall cure such default, the Town, at its option, may (a) continue the lease in effect and enforce all rights and remedies hereunder, including the right to recover the rent as it becomes due, or (b) terminate all rights of Tenant hereunder and recover from Tenant all damages Town may incur by

reason of the breach of the Lease, including the cost of recovering the Premises. If Tenant abandons or vacates the Premises while in default of payment of rent, Town may consider any property left on the Premises to be abandoned and may dispose of the same in any manner allowed by law. In the event the Town reasonably believes that such abandoned property has no value, it may be discarded. All property on the Premises is hereby subject to a lien in favor of Town for the payment of all sums due hereunder, to the maximum extent allowed by law.

17. **Attorney Fees, Costs, and Expenses.** In the event that a dispute arises under this Agreement, including Default, the prevailing party shall recover reasonable attorney fees and costs in connection with any court action.
18. **Insurance.** Lessee shall retain general commercial liability insurance through the term of this Agreement and while occupying the premises as a holdover tenant. Coverage limits shall be in the amount of \$2,000,000 as the general aggregate limit for all claims and \$1,000,000 for each occurrence for personal injury or death. Lessee shall also maintain appropriate workers' compensation coverage while occupying the premises.
19. **Subject to Other Interests.** The parties acknowledge that this Agreement is subject and subordinate to any mortgage and/or deed of trust that may affect such leases relating to the premises. However, this party secured by any such mortgage or deed of trust shall have the right to recognize this Agreement at their discretion in the event of foreclosure.
20. **Liens.** Lessee shall not permit any liens to be placed on the premises without prior written consent of Lessor. In the event Lessee fails to pay any lien on the premises, that lien may be paid by the Lessor and charged to Lessee, payable within thirty (30) days of receipt of written notice.

21. **Choice of Law.** This Agreement shall be governed in its entirety by the laws of the State of Colorado.
22. **Severability.** The provisions of this Agreement are severable and separate, and if one or more is deemed voidable or void by statute or rule of law, the remaining provisions shall be severed therefrom and shall remain in full force and effect.
23. **Inurement.** This Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, personal representatives, successors, and assigns.
24. **Integration.** This Agreement supersedes all prior agreements between the parties with respect to its subject matter and constitutes (along with all appendices and documents incorporated by reference) a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter.
25. **Indemnification.** Lessor shall not be liable for any damages or injury to Lessee or any other person or to any property located or occurring on the premises unless such damage is the proximate result of the negligence or unlawful act of the Lessor, its agents, or its employees, and Lessor is not otherwise immune from liability under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et. seq.*

Entered into this ____ day of _____, 2015, by the following parties:

Cheryl Wilkinson, Representative of Archuleta Seniors, Inc.

Greg Schulte, Town Manager, Town of Pagosa Springs, Colorado



AGENDA DOCUMENTATION

NEW BUSINESS: IV.2

PAGOSA SPRINGS TOWN COUNCIL

MAY 5, 2015

SCOTT FROST, SPECIAL PROJECTS MANAGER

PROJECT: AWARDING CONSTRUCTION CONTRACT FOR PIEDRA STREET RESURFACING

ACTION: DISCUSSION AND POSSIBLE DECISION

PURPOSE/BACKGROUND

On February 3, 2015 Council voted to proceed with plans to reconstruct Piedra Street from its intersection with 8th street to the north edge of Old Durango Road. It was determined that the sidewalk would be constructed on the north side of the street. Final plans were drawn by Davis Engineering and the project went out to bid March 5. On April 23rd, Town Manager Greg Schulte and Project Manager Scott Frost attended the bid opening in the office of Davis Engineering.

There were two (2) qualified bids as follows:

- Stroehecker Asphalt & Paving, Inc.: \$373,945.72
- Hart Construction Corporation: \$350,977.47

ATTACHMENT(S)

Bid Abstract

FISCAL IMPACT

The Piedra Street Reconstruction Project is an approved item in the Town's Adopted 2015 Budget with \$500,000.00 in Available funding.

Low bid for construction:	\$350,977.47
Engineering, design and contract management:	<u>\$ 38,000.00</u>
Total estimated Project Cost:	\$388,977.47

As the Council may recall, the difference of approximately \$111,000 between the budgeted amount and the estimated project cost will be directed towards the Trujillo Road Project.

RECOMMENDATION

Staff recommends Town Council to consider the following motions:

"Move to ACCEPT the low bid and award the contract to Hart Construction for the Piedra Street Project in the amount of \$350,977.47."

"Move to REJECT all bids and direct staff. "

**PIEDRA STREET RESURFACING
TOWN OF PAGOSA SPRINGS, COLORADO**

**Bid Abstract
April 23, 2015**

Item #	Item Description	Quantity	Units	Engineer's Estimate		Hart Construction Corporation		Strohecker Asphalt & Paving, Inc.	
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1a	Clearing & Grubbing	1	l.s.	\$ 750.00	\$ 750.00	\$ 1,985.08	\$ 1,985.08	\$ 3,500.00	\$ 3,500.00
1b	Topsoil Remove & Replace	1	l.s.	\$ 1,500.00	\$ 1,500.00	\$ 1,985.08	\$ 1,985.08	\$ 3,750.00	\$ 3,750.00
2	Pulverize Roadway	2,993	s.y.	\$ 2.00	\$ 5,986.00	\$ 4.22	\$ 12,630.46	\$ 3.75	\$ 11,223.75
3a	Excavation & Embankment	250	c.y.	\$ 17.50	\$ 4,375.00	\$ 12.84	\$ 3,210.00	\$ 25.00	\$ 6,250.00
3b	Remove Curb & Gutter	171	l.f.	\$ 5.00	\$ 855.00	\$ 2.92	\$ 499.32	\$ 8.25	\$ 1,410.75
3c	Remove Concrete Slab	1,392	s.f.	\$ 1.00	\$ 1,392.00	\$ 1.17	\$ 1,628.64	\$ 3.50	\$ 4,872.00
3d	Remove Culvert	242	l.f.	\$ 15.00	\$ 3,630.00	\$ 4.09	\$ 989.78	\$ 15.00	\$ 3,630.00
3e	Subgrade Preparation	4,742	s.y.	\$ 2.50	\$ 11,855.00	\$ 2.45	\$ 11,617.90	\$ 2.25	\$ 10,669.50
4	ABC, Class 6	690	c.y.	\$ 42.00	\$ 28,980.00	\$ 46.71	\$ 32,229.90	\$ 53.00	\$ 36,570.00
5a	Asphalt Paving, 3" thick	41	tons	\$ 150.00	\$ 6,150.00	\$ 134.95	\$ 5,532.95	\$ 120.00	\$ 4,920.00
5b	Asphalt Paving, 4" thick	550	tons	\$ 110.00	\$ 60,500.00	\$ 134.95	\$ 74,222.50	\$ 120.00	\$ 66,000.00
6	Concrete Paving, 8.5" thick	350	s.y.	\$ 110.00	\$ 38,500.00	\$ 126.53	\$ 44,285.50	\$ 127.32	\$ 44,562.00
7a	Sidewalk, 4" thick	5,032	s.f.	\$ 5.50	\$ 27,676.00	\$ 6.52	\$ 32,808.64	\$ 6.55	\$ 32,959.60
7b	Driveway Apron, 6" thick	1,846	s.f.	\$ 7.50	\$ 13,845.00	\$ 8.37	\$ 15,451.02	\$ 8.42	\$ 15,543.32
7c	Curb & Gtr., 18" pan, 6" curb	910	l.f.	\$ 25.00	\$ 22,750.00	\$ 32.85	\$ 29,893.50	\$ 33.05	\$ 30,075.50
7d	Driveway Gutter	261	l.f.	\$ 27.50	\$ 7,177.50	\$ 32.85	\$ 8,573.85	\$ 33.05	\$ 8,626.05
8	Inlets	5	ea.	\$ 2,500.00	\$ 12,500.00	\$ 3,503.09	\$ 17,515.45	\$ 3,500.00	\$ 17,500.00
9a	CMP, 18" diameter	160	l.f.	\$ 50.00	\$ 8,000.00	\$ 54.88	\$ 8,780.80	\$ 45.25	\$ 7,240.00
9b	CMP, 24" diameter	50	l.f.	\$ 75.00	\$ 3,750.00	\$ 67.73	\$ 3,386.50	\$ 65.00	\$ 3,250.00
9c	HDPE, 15" diameter	6	l.f.	\$ 100.00	\$ 600.00	\$ 88.74	\$ 532.44	\$ 57.50	\$ 345.00
9d	Metal End Section, 18" dia.	1	ea.	\$ 450.00	\$ 450.00	\$ 256.89	\$ 256.89	\$ 562.00	\$ 562.00
9e	Metal End Section, 24" dia.	1	ea.	\$ 600.00	\$ 600.00	\$ 356.15	\$ 356.15	\$ 750.00	\$ 750.00
10	Riprap	6	c.y.	\$ 100.00	\$ 600.00	\$ 99.25	\$ 595.50	\$ 250.00	\$ 1,500.00
11a	Concrete Collar, Manhole	1	ea.	\$ 1,000.00	\$ 1,000.00	\$ 350.31	\$ 350.31	\$ 1,500.00	\$ 1,500.00
11b	Elevation Adj., Valve Box	4	ea.	\$ 500.00	\$ 2,000.00	\$ 204.35	\$ 817.40	\$ 750.00	\$ 3,000.00
11c	Chain Link Fnc., Rmv. & Repl.	160	l.f.	\$ 17.50	\$ 2,800.00	\$ 9.34	\$ 1,494.40	\$ 27.00	\$ 4,320.00
11d	Boulder Landscape Wall	10	l.f.	\$ 100.00	\$ 1,000.00	\$ 46.71	\$ 467.10	\$ 350.00	\$ 3,500.00
11e	Modify Steel Pipe Fence	1	l.s.	\$ 1,000.00	\$ 1,000.00	\$ 583.85	\$ 583.85	\$ 1,250.00	\$ 1,250.00
12a	Sub. Stab. - Aggregate	200	c.y.	\$ 60.00	\$ 12,000.00	\$ 49.04	\$ 9,808.00	\$ 60.00	\$ 12,000.00
12b	Sub. Stab. - Geogrid	600	s.y.	\$ 4.00	\$ 2,400.00	\$ 3.27	\$ 1,962.00	\$ 8.25	\$ 4,950.00
13	Grade Shoulders & Ditches	775	l.f.	\$ 2.00	\$ 1,550.00	\$ 1.99	\$ 1,542.25	\$ 2.75	\$ 2,131.25
14a	Seeding & Fertilizing	1,625	s.y.	\$ 1.00	\$ 1,625.00	\$ 1.63	\$ 2,648.75	\$ 0.95	\$ 1,543.75
14b	Mulching	675	s.y.	\$ 1.00	\$ 675.00	\$ 1.87	\$ 1,262.25	\$ 0.95	\$ 641.25
14c	Fiber Mat	950	s.y.	\$ 3.00	\$ 2,850.00	\$ 5.25	\$ 4,987.50	\$ 4.50	\$ 4,275.00
15a	Construction Fence	100	l.f.	\$ 4.00	\$ 400.00	\$ 2.34	\$ 234.00	\$ 6.00	\$ 600.00
15b	Straw Wattles	200	l.f.	\$ 6.00	\$ 1,200.00	\$ 5.84	\$ 1,168.00	\$ 12.25	\$ 2,450.00
15c	Silt Fence	100	l.f.	\$ 5.00	\$ 500.00	\$ 2.92	\$ 292.00	\$ 8.50	\$ 850.00
16a	Pavement Marking, White	1	gal.	\$ 500.00	\$ 500.00	\$ 145.96	\$ 145.96	\$ 325.00	\$ 325.00
16b	Pavement Marking, Yellow	6	gal.	\$ 200.00	\$ 1,200.00	\$ 145.96	\$ 875.76	\$ 275.00	\$ 1,650.00
17	Traffic Control Signs	7	ea.	\$ 500.00	\$ 3,500.00	\$ 408.69	\$ 2,860.83	\$ 500.00	\$ 3,500.00
18	Maintenance of Traffic	1	l.s.	\$ 5,000.00	\$ 5,000.00	\$ 4,670.78	\$ 4,670.78	\$ 4,000.00	\$ 4,000.00
19	Mobilization & Demobilization	1	l.s.	\$ 10,000.00	\$ 10,000.00	\$ 5,838.48	\$ 5,838.48	\$ 5,750.00	\$ 5,750.00
Base Bid Item Totals				\$ 313,621.50		\$ 350,977.47		\$ 373,945.72	



AGENDA DOCUMENTATION

NEW BUSINESS IV.3

PAGOSA SPRINGS TOWN COUNCIL

MAY 5, 2015

FROM: SCOTT FROST SPECIAL PROJECTS MANAGER

PROJECT: AWARD OF CONTRACT TO REPLACE THE FLOOR IN THE COMMUNITY CENTER MULTIPURPOSE ROOM

ACTION: DISCUSSION AND POSSIBLE DECISION

PURPOSE/BACKGROUND

On March 19, 2015 Council directed staff to pursue installation of a Hardwood Sports Floor in the Community Center. After considering current use of the space by various groups, a Specification Sheet was developed and the project was advertised for RFP. The advertising included posting on the Town website, advertising in the legal section of the Pagosa Sun (April 23 & 30), various wholesale flooring suppliers in Denver and Albuquerque, and any other local known flooring contractors received direct invitations to bid. RFP Packets were requested by seven (7) qualified contractors.

As of this writing (April 30), one (1) bid packet has been received and four (4) more are expected before bid opening May 1 at 2:30 PM.

ANALYSIS

The RFP packet specifies dates for arrival of materials, start and finish of construction, performance draw and final payment schedule, ADA requirements, warranty, and access to building by contractors as well as specific materials and techniques requirements. The period of July 6 through July 24, 2015 was reserved with the Community Center staff as the time period for the floor replacement to occur. Scott Frost will represent the Town as Construction Manager, with input from the Parks and Recreation Department and Community Center Staff.

FISCAL IMPACT

The project will utilize funds held in trust for Community Center Improvements with possible additional funding coming from PROST and Conservation Trust Fund accounts. The present balance of the trust account for the Community Center is approximately \$180,000. After all bids have been opened, Council will be notified by e-mail of the bid results and a full report of all bids received will be made available for Council at the May 5th meeting.

RECOMMENDATION

It is the recommendation that Town Council, by motion:

- 1) **"Award the contract to the low qualified bid submitted by (Bidder X) in the amount of \$XX,000 which offers the best value to the Town in terms of price, product and warranty."**
- 2) **"Reject all bids and direct staff to pursue alternative remedy for existing floor."**



AGENDA DOCUMENTATION

NEW BUSINESS: IV.4

PAGOSA SPRINGS TOWN COUNCIL

MAY 5, 2015

FROM: JAMES DICKHOFF, TOWN PLANNING DIRECTOR

PROJECT: CARGO SHIPPING CONTAINER USE AND PLACEMENT REGULATIONS

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

The Planning Commission has been considering potential regulations for the allowable Use and Placement of Cargo Shipping Containers (CSC's) for some time now.

The Parks & Recreation Board was asked to comment on the allowable placement within Town Parks, and on August 13, 2014 unanimously approved the following recommendation: *"That the Parks and Recreation Commission decline to allow the placement of such a container on Reservoir Hill and recommend that the Town Council take the same position."*

Over the course of discussing the potential regulations, staff brought many recommendations for the PC's consideration, most of which were accepted by the PC. The one item the PC disagreed with was staff's recommendation to prohibit CSC's in residential zoned districts. The PC voted 3 in favor and 2 opposed for allowing CSC's in residential districts.

On March 10, 2015, the Planning Commission made the following two motions and recommendations for Town Council's consideration:

Motion made by commissioner Lattin and seconded by commissioner Martinez and motion carried (with commissioners Adams and Parker opposing), **"to:**

1. *Require all permanent accessory structures to be consistent in design and appearance as the primary structure.*
2. *Require a Building Permit for all permanent accessory structures, with no fee charged for structures under 120 sq ft.*
3. *Allow the Permanent placement of Cargo Shipping Containers in Light Industrial Zoned districts.*
4. *Allow the Temporary Placement for up to two-180 day periods, with an administratively approved Temporary Use Permit (TUP), in all districts. Use must be associated with the primary structure of the property.*
5. *Allow the Temporary placement of CSC's relative to an active building permit, with an administratively approved TUP. Use must be associated with construction activities.*
6. *Allow the Permanent placement and use within the Commercial (C), Mixed Use Corridor (MU-C) and Mixed Use Town Center (MU-TC) districts (with the overlay district exception in #7 below), limiting to*

no more than 25% of the primary structure square footage and no more than 320 square feet of Cargo Containers (Two 8' x 20' containers or one 8' x 40' container). As in #1 above, the CSC shall be consistent in design and appearance as the primary structure.

- 7. Within the Downtown Business and Lodging Overlay District and Downtown East Village Overlay District, Allow the Permanent placement and use, limiting to no more than 25% of the primary structure square footage and no more than 160 square feet of Cargo Containers (one 8' x 20' container). As in #1 above, the CSC shall be consistent in design and appearance as the primary structure.*
- 8. Prohibit the permanent placement and use in the Open Space District (Parks).*
- 9. Allow the Permanent Placement and use within the Public/Quasi Public District, Limiting to no more than 160 square feet. As in #1 above, the CSC shall be consistent in design and appearance as the primary structure."*

Motion made by commissioner Lattin and seconded by commissioner Martinez, and motion carried (with commissioners Adams and Parker opposing):

"To allow the Permanent Placement and use of CSC's in residential districts, limiting the size to no more than 80 square feet (8' x 10'), provided the CSC is consistent in design and appearance of the primary structure which may require the installation of siding and roof and be painted to match the primary structure or similarly roofed as the primary structure within an area such as a carport."

The Planning Commission approved the Planning Director to present the Planning Commission's recommended Cargo Shipping Container regulations to Town Council for approval prior to staff creating the resulting Land Use Development Code revisions and additions that would be incorporated into an Ordinance for the Planning Commission's and Town Council's consideration.

ANALYSIS

During the many PC meetings, staff referred to the Comprehensive Plan, Downtown Master Plan and stated purposes within the LUDC for guidance in developing specific regulations for CSC's.

The Comprehensive Plan (CP)

- ~ Identifies and promotes healthy and attractive neighborhoods and need to protect character of neighborhoods by promoting quality developments, compatible with existing and proposed developments.*
- ~ CP Policy G-4(b) Infill and Redevelopment Designed to be Compatible:
Ensure compatible infill & redevelopment by considering aspects such as scale and massing of buildings, setbacks, relationship of entrances to street and public spaces, landscaping, sidewalks, and other broad design issues that provide consistency & compatibility of new structures with older structures.*
- ~ Policy G-6(a) Development Contributes to Positive Image and Livability of Town
Ensure new private development (residential +nonresidential) contributes to furthering development of Pagosa Springs as a sustainable and livable community and fosters the town's eclectic and unique architectural qualities. Characteristics may be different for specific parts of the community, and new development should not lead to standard "sameness" for all buildings or all parts of town.*

The Downtown Master Plan

- ~ Generally supports building design compatibility.
FP7. Ensure new infill and redevelopment contains site and architectural elements that reflect the desired character of the community, by employing design Guidelines.
Chapter 6: Design Guidelines:
~ Supports architectural character of buildings relative to the existing context, and maintaining the character of an authentic rural mountain Town.*

- ~ *New buildings, redevelopment and building renovations should respect the small town character of Pagosa Springs. In General, buildings should have a high degree of visual interest that derives from the use of a traditional building material palette.*
- ~ *A new building should be compatible with the traditional architectural features exhibited by existing buildings in town, reinforcing traditional building patterns.*

Land Use Development Code, Article 6: Development and Design Standards: 6.1.1. PURPOSE

This Section includes standards that must be followed when developing property or establishing new uses of property within the boundaries of Pagosa Springs, to ensure the protection of the health, welfare, safety, and quality of life for local citizens, visitors, and business owners. The development and design standards in this chapter shall apply to the physical layout and design of all development, unless exempted by this Land Use Code. These provisions address the physical relationship between development and adjacent properties, public streets, neighborhoods, and the natural environment, in order to implement the comprehensive plan vision for a more attractive, efficient, and livable community.

LUDC 6.7 COMMERCIAL AND MIXED-USE DESIGN STANDARDS: 6.7.1 PURPOSE

This Section is intended to promote high-quality commercial and mixed-use building design, encourage visual variety in non-residential areas of the Town, foster a more human scale and attractive street fronts, project a positive image to encourage economic development in the Town, and protect property values of both the subject property and surrounding areas. In addition, this Section intends to create a distinct image for important or highly visible areas of the Town.

6.8.1 PURPOSE

Purpose of these standards is to ensure that multi-family and townhome developments exhibit creativity and variety in design features to avoid the creation of bleak, monotonous streetscapes and neighborhoods.

Further direction from the TC is needed on how to handle seeking compliance from for the CSC’s that have been placed over many years, some of which were not allowed at the time they were placed and some could be interpreted as being allowed at the time they were placed.

FISCAL IMPACT

There may be some expenses associated with the review of proposed LUDC revisions by the Town’s attorney.

RECOMMENDATION

Staff recommends the TC provide direction to staff regarding the proposed CSC regulations in preparation for staff to bring LUDC revisions for Planning Commission and Town Council consideration.

- 1) Direct Staff to Develop Land Use Development Code Revisions and an Ordinance Based on the Proposed Cargo Shipping Container Regulations Recommended by the Planning Commission.
- 2) Direct Staff to Develop Land Use Development Code Revisions and an Ordinance Based on the Proposed Cargo Shipping Container Regulations Recommended by the Planning Commission, with the Following Revisions/Additions/Deletions.....
- 3) Deny Accepting the Recommendations from the Planning Commission.



AGENDA DOCUMENTATION

NEW BUSINESS: IV.5

PAGOSA SPRINGS TOWN COUNCIL

MAY 5, 2015

FROM: JAMES DICKHOFF, TOWN PLANNING DIRECTOR

PROJECT: RESOLUTION 2015-07, ADOPTING REVISIONS TO THE "DESIGN GUIDELINES FOR THE HISTORIC BUSINESS DISTRICT AND LOCAL LANDMARKS"

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

The Historic Preservation Board (HPB) has been discussing the previously adopted "Design Guidelines for the Historic Business District and Local Landmarks" regarding allowable exterior colors for structures and signs within the Historic District and for Local Listed Landmarks. Over the course of 4 public meetings, the HPB has reviewed regulations from other similar Colorado Communities and has discussed the Town's current limited allowable approved colors. Most of the current board members have questioned the approved colors for some time now stating concern over the current exterior color restrictions.

On July 3, 2007, Town Council approved Resolution No. 2007-13, adopting the "Design Guidelines for the Historic Business District and Local Landmarks". This document is referenced in Article 8 of the LUDC regarding Historic Preservation, providing guidance for projects within the district and local landmarks.

On April 23, 2015 at a Special HPB Meeting, the HPB unanimously approved a recommendation for Town Councils consideration, to amend the Design Guidelines for the Historic Business District and Local Landmarks as represented in Exhibit A of Resolution 2015-07, attached. The HPB's recommendation is to amend the allowable colors and open up the opportunity for using a wider choice of color considerations.

ANALYSIS

The HPB proposed revisions provide property owners and business with many more opportunities for exterior color selections for buildings and signs with in the Historic District and on Local Listed Landmarks. The HPB felt the previous approved color palettes, was restrictive and was not necessarily representative of appropriate colors, and overly limited color choices. The proposed revisions are consistent with many progressive Historic Districts with in Colorado.

ATTACHMENTS:

Resolution 2015-07 with Exhibit A.

FISCAL IMPACT

No fiscal impact is expected. Town Staff can incorporate any approved revisions to the "Design Guidelines for the Historic Business District and Local Landmarks".

RECOMMENDATION

The Historic Preservation Board and Staff recommend the Town Council by Motion:

Approve Resolution 2015-07, Adopting Revisions to the Design Guidelines for the Historic Business District and Local Landmarks Regarding Allowable Exterior Color Considerations.



TOWN OF PAGOSA SPRINGS, COLORADO TOWN COUNCIL

RESOLUTION NO. 2015-07

**A RESOLUTION OF THE TOWN OF PAGOSA
SPRINGS ADOPTING REVISIONS TO THE DESIGN
GUIDELINES FOR THE HISTORIC BUSINESS
DISTRICT AND HISTORIC LANDMARKS**

WHEREAS, the Town of Pagosa Springs ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003; and

WHEREAS, the Town Council has, by Ordinance, adopted Article 8, of the Pagosa Springs Land Use Development Code regarding the preservation of Historic Landmarks and Historic Districts;

WHEREAS, Section 8.1.1 of Article 8 of the Pagosa Springs Land Use Development Code authorizes the Town to adopt design guidelines to be followed by property owners of Historic Landmarks or structures located within Historic Districts; and

WHEREAS, the Town Council, by Resolution 2007-13 adopted design guidelines for the historic business district and local landmarks as recommended by the Historic Preservation Board;

WHEREAS, the Town Council wishes to adopt revisions and additions, regarding allowable exterior colors, to the design guidelines for the historic business district and local landmarks as recommended by the Historic Preservation Board;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

Section 1. Adoption of Revisions to Design Guidelines. The Town Council hereby adopts the revisions as proposed by the Historic Preservation Board to the design guidelines for the historic business district and local landmarks as described on Exhibit A, attached hereto.

Section 2. Severability. If any portion of this Resolution is found to be void or ineffective, it shall be deemed severed from this Resolution and the remaining provisions shall remain valid and in full force and effect.

Section 3. Effective date. This Resolution shall become effective and be in force immediately upon passage.

ADOPTED THIS 5th DAY OF MAY, 2015, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, BY A VOTE OF __ IN FAVOR, __ AGAINST.

TOWN OF PAGOSA SPRINGS

By: _____
Don Volger, Mayor

ATTEST:

By: _____
April Hessman, Town Clerk

EXHIBIT A

Deletions, Revisions and Additions to the Design Guidelines for the Historic Business District and Local Landmarks Are as follows:

Delete existing Section 5.2, and replace with:

“Paint Colors should be based on historic research of local structures or buildings from the same time period.

- A summary of acceptable exterior color considerations is reviewed in Appendix D.”

Delete existing Section 7.11, and replace with:

“Paint Coors should be based on historic research of local structures or buildings from the same time period.

- A summary of acceptable exterior color considerations is reviewed in Appendix D.”

Delete existing Section 8.15, and replace with:

“Use of colors for the sign that are compatible with those of the building front.

- Limit the number of colors used on a sign. In general, no more than three (3) colors should be used.
- A summary of acceptable exterior color considerations is reviewed in Appendix D.”

Addition to Section 9.2:

- A summary of acceptable exterior color considerations is reviewed in Appendix D.”

Delete existing Appendix D and replace with:

Appendix D

Allowable exterior color considerations

Pagosa Springs has a unique melody of colors within our community that is associated with its diverse architectural style and heritage. A variety in color schemes and texture is desired to enhance the pedestrian experience and provide visual interest within the Historic District and for locally designed landmarks. The intent is to maintain the traditional range of building and sign materials and colors. Many colors are associated with individual building types and styles, while others reflect the tastes of distinct historical periods. While color in itself does not affect the actual form of a building, it can dramatically affect the perceived scale of a structure and it can help to combine a building form with its context.

Keep color schemes simple.

- Generally, the use of no more than 3 colors for the exterior of buildings, structures and signs is appropriate.
- Use of one base color for the building is preferred. Subtle natural colors are appropriate for the base color.
- Using only one or two accent colors is also encouraged, except where precedent exists for using more than two colors with specific architectural styles.

Coordinating the entire building in one color scheme is usually more successful than working with a variety of palettes.

- Using the color scheme to establish a sense of overall composition for the building is strongly encouraged.

Subtle natural colors are preferred for the background color of most buildings.

- A darker background color will allow you to use lighter colors for trim, where the highlights will show up better.
- Lighter colors can also be used as a background, but with a light background and accent color on the trim, the entire scheme is more susceptible to becoming too busy. If light background colors are used, it is best to use a different shade of the same hue for the trim.

Use of brighter colors for accents only.

- Reserve the use of stronger, brighter colors for accents, such as signs, ornamentation, and entrances.
- In most cases only one or two accent colors should be used in addition to the base color.
- Doors may be painted a brighter accent color, or they may be left a natural wood finish.
- Window sashes are also an excellent opportunity for accent color.



AGENDA DOCUMENTATION

NEW BUSINESS: IV.6

PAGOSA SPRINGS TOWN COUNCIL

MAY 5, 2015

FROM: JAMES DICKHOFF, TOWN PLANNING DIRECTOR

PROJECT: FIRST READING OF ORDINANCE 825, AMENDING CHAPTER 6 OF THE MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW ARTICLE 5 FOR THE REGULATION AND LICENSING OF MARIJUANA BUSINESS ESTABLISHMENTS.

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

As the Town Council has considered specific regulations for Marijuana Establishments at public meetings over the course of the last 3 months, the First Reading of Ordinance 825 embodies the numerous previous decisions from the above mentioned public hearings. A few of the major actions included:

- ~ Extended Moratorium until June 1, 2015.
- ~ Allowing optional premise cultivation operations.
- ~ At least 70% of product sold in retail and medical establishments be grown within Archuleta County.
- ~ TC approved establishing a 1,000 foot buffer for Schools, Day Care Facilities and drug/alcohol treatment facilities. Approved a 250 foot buffer from Residential districts and Churches, with a conditional use permit required within 250 feet of established buffer churches and residential zone districts. Allowable zone districts include:
 - Mixed Use Town Center, Mixed Use Corridor, Commercial and Light Industrial districts.
- ~ Town Council to serve as the Local Licensing Authority.
- ~ Adopt Operation Limitations similar to those contained within Section 1.09 of County Ordinance 12-2014.
- ~ Require a public hearing to consider license applications with public notification similar to Liquor Licensing.
- ~ Require separate background checks in addition to those conducted by the State of Colorado

ANALYSIS

In speaking with legal counsel regarding the Marijuana Ordinance, it's becoming apparent that if/when Town Council approves the Ordinance, it's going to trigger the need to revise certain sections of the Land Use Development and Municipal Codes. Furthermore, with the possible approval of the Ordinance on May 21st and the expiration of the existing Moratorium in June 1st, it's going to be difficult for staff to be administratively poised to accept and process applications on June 2nd. Thus, staff recommends and has included in the Ordinance the date of September 1, 2015 as the first day the Town will accept applications.

ATTACHMENTS:

- ~ Ordinance 825, An Ordinance of the Town of Pagosa Springs Amending Chapter 6 of the Pagosa Springs Municipal Code by the Addition thereto of a New Article 5 for the Regulation and Licensing of Marijuana Establishments.
- ~ West and East Marijuana Establishment Location Maps.

FISCAL IMPACT

Legal fees for drafting an ordinance and recordation of the ordinance. Amending the Town's Fee Schedule will occur at a later date, but prior to the September 1, 2015 application acceptance date to detail the fees the Town will charge for the licensing.

RECOMMENDATION

Alternative actions for Town Council's consideration may include the following:

- 1) **“Approve the first reading of Ordinance 825, An Ordinance of the Town of Pagosa Springs Amending Chapter 6 of the Pagosa Springs Municipal Code by the Addition thereto of a New Article 5 for the Regulation and Licensing of Marijuana Establishments”.**
- 2) **“Approve the first reading of Ordinance 825, An Ordinance of the Town of Pagosa Springs Amending Chapter 6 of the Pagosa Springs Municipal Code by the Addition thereto of a New Article 5 for the Regulation and Licensing of Marijuana Establishments, with the following amendments”.**
- 3) **“Deny approving the first reading of Ordinance 825”.**

Previous Town Council actions of marijuana establishments include the following:

Feb 3: Approved extending the moratorium to June 1, 2015.

Council Member Schanzenbaker moved to approve as first reading an extension of Ordinance 796, an ordinance of the Town of Pagosa Springs amending chapter 6 of the Pagosa Springs Municipal Code by the addition thereto of a new article 5 prohibiting the sale and cultivation of medical marijuana, including medical marijuana centers, optional premises cultivation operations and medical marijuana-infused products manufacturing, and a new article 6 prohibiting the operation of marijuana clubs, marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores: which ordinance will automatically expire June 1, 2015 for the purpose of directing staff to bring back legislation to council for regulating and licensing marijuana businesses within town limits, Council Member Egan seconded, motion passed with three nay (Council Members Bunning and, Lattin, and Mayor Volger).

Mar 13:

1. Approval of Types of Retail and Medicinal Marijuana Establishments.
 2. Approval of Dual Operations Retail and Medicinal Marijuana at Same Location.
 3. Approval of Location of Retail and/or Medicinal Marijuana Cultivation Operations
 4. Approval of Marijuana Retail and/or Medicinal Operations Parameters and Restrictions
 5. Approval of Retail and/or Medicinal Location Restrictions:
 6. Approved the Town Council to serve as the Local Licensing Authority
 7. Approval of Retail and / or Medicinal Marijuana Licensing Restrictions
 8. Approval of Retail and / or Medicinal Marijuana Enforcement Procedures
 9. Approval of Retail and / or Medicinal Marijuana Fees and Taxes
10. Approval for Directing Staff to Extend Ordinance 796 Marijuana Business Prohibition Beyond the June 1, 2015 Deadline

Mar 19:

Approval of Retail and/or Medicinal Location Restrictions: Discussions lead to Mar 27 special meeting.

Mar 27:

1. Approval of Types of Marijuana Establishments (Retail / Medicinal) : APPROVED
2. Approval of Dual Operations (Retail and Medicinal Marijuana at Same Location): APPROVED
3. Approval of Location of Retail and/or Medicinal Marijuana Cultivation Operations
Approval of Retail and/or Medicinal Location Restrictions: Council Member Schanzenbaker moved to approve the following marijuana establishments; medical marijuana centers, medical marijuana-infused products manufacturing, optional premises cultivation operations, retail marijuana stores, and retail marijuana cultivation facilities within town boundaries in all districts and use by right, with a conditional use permit required within 250 feet of established buffer churches and residential zone districts, Council Member Egan seconded, motion passed with two nays (Council Members Lattin and Bunning).

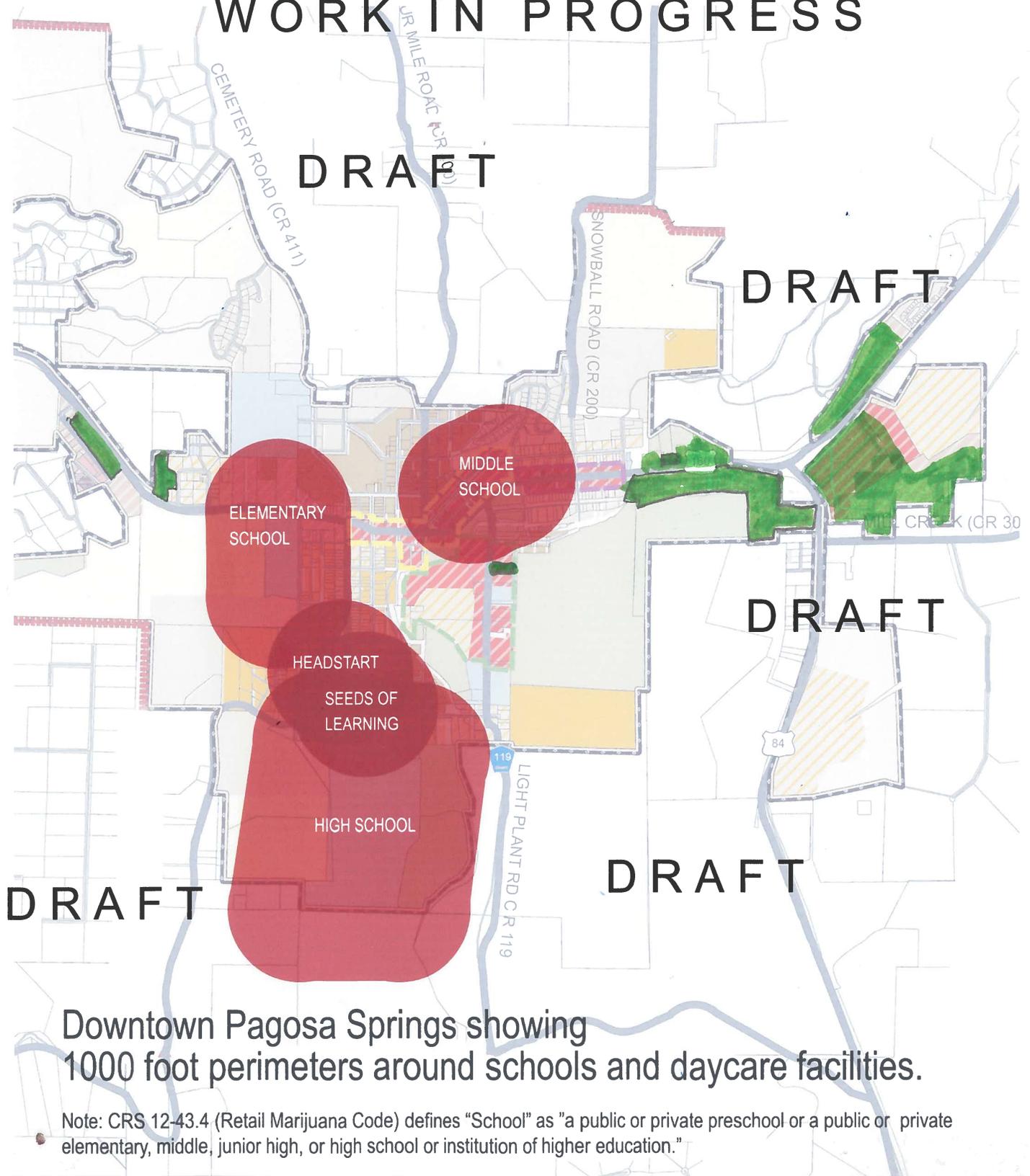
April 7:

1. Marijuana Local Licensing Authority: Council Member Lattin moved to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision designating the Town Council as the Local Licensing Authority, Council Member Alley seconded, unanimously approved.
2. Marijuana Business Operations Limitations: Council Member Alley moved to direct staff to incorporate into the proposed medical and retail marijuana Ordinance, in a proper format, a section specifying operation limitations for retail and medical marijuana establishments similar to the limitations detailed in Section 1.09 of County Ordinance 12-2014, and look into the use of safe rooms, and to gather information on background checks similar to the County requirements, Council Member Egan seconded, unanimously approved.

April 23:

1. Marijuana Cultivation: Council Member Alley moved to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision requiring at least 70% of marijuana be cultivated within Archuleta County, Council Member Patel seconded, unanimously approved.
2. Marijuana Licensing Public Hearing: Council Member Schanzenbaker moved to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision requiring a public hearing, consistent with alcohol establishment business licensing applications, for considering Marijuana Establishment business license applications, Council Member Egan seconded, motion passes with three nays (Mayor Volger, Council Members Bunning and Lattin).
3. Marijuana Fees: Council Member Egan moved to direct staff to incorporate into the proposed Town medical and retail marijuana ordinance, in a proper format, a section describing and defining fees associated with the administration of the retail and medical marijuana ordinance similar to Part XII of County Ordinance 12-2014, Council Member Patel seconded, unanimously approved.
4. Marijuana Background Checks: Council Member Alley moved to direct staff to incorporate into the proposed medical and retail marijuana Ordinance a provision requiring the Authority to conduct a background checks of owners and employees to make a finding as to the good moral character of the applicant similar to the County's ordinance provisions, Council Member Patel seconded, unanimously approved.

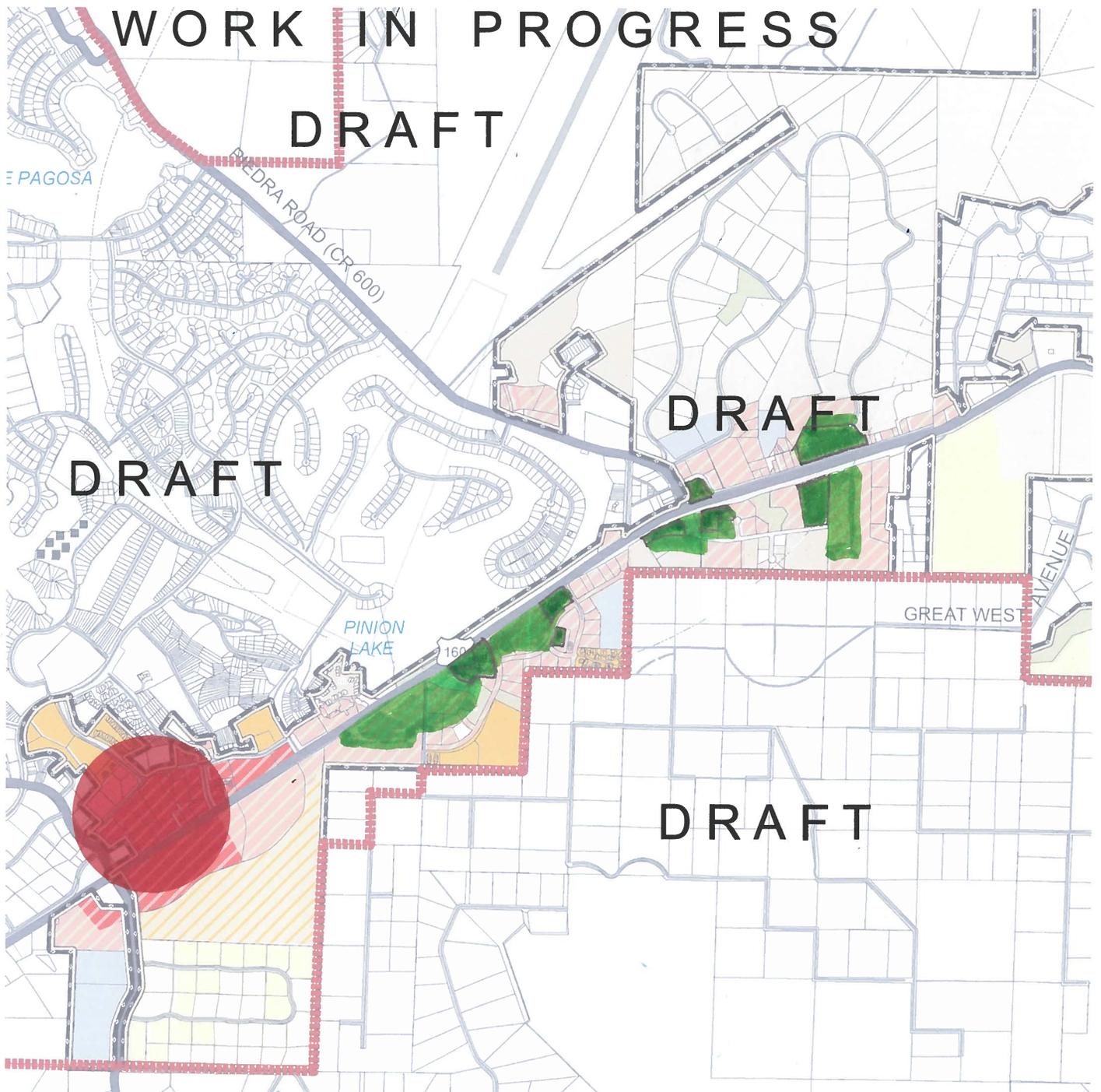
WORK IN PROGRESS



Downtown Pagosa Springs showing 1000 foot perimeters around schools and daycare facilities.

Note: CRS 12-43.4 (Retail Marijuana Code) defines "School" as "a public or private preschool or a public or private elementary, middle, junior high, or high school or institution of higher education."

Green Shaded Areas are those areas that are at least 1000 feet from Schools, Child Care Facilities and Drug and Alcohol Treatment Centers and those areas at least 250 from Churches and Residential areas.



Uptown Pagosa Springs showing 1000 foot perimeters around schools and daycare facilities.

Note: CRS 12-43.4 (Retail Marijuana Code) defines "School" as "a public or private preschool or a public or private elementary, middle, junior high or high school or institution of higher education."

Green Shaded Areas are those areas that are at least 1000 feet from Schools, Child Care Facilities and Drug and Alcohol Treatment Centers and those areas at least 250 from Churches and Residential areas.

TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 825
(SERIES 2015)**

**AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS
AMENDING CHAPTER 6 OF THE PAGOSA SPRINGS
MUNICIPAL CODE BY THE ADDITION THERETO OF A NEW
ARTICLE 5 FOR THE REGULATION AND LICENSING OF
MARIJUANA BUSINESS ESTABLISHMENTS**

WHEREAS, the Town of Pagosa Springs (“Town”) is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003, as amended on April 3, 2012; and

WHEREAS, on November 7, 2000, the voters of the state of Colorado approved Amendment 20 enacted as Article XVIII, Section 14 of the Colorado Constitution (“Amendment 20”), which authorizes, subject to certain limitations, the medical use of marijuana by patients who have been advised by their physician, in a bona fide physician-patient relationship, that the patient might benefit from the medical use of marijuana in connection with the patient’s debilitating medical condition; and

WHEREAS, Amendment 20 further provides such patients and their primary caregivers an affirmative defense, subject to certain limitations, to a state law charge regarding the use and possession of marijuana; and

WHEREAS, the General Assembly enacted the Colorado Medical Marijuana Code (C.R.S. §12-43.3-101, et seq., hereafter, “Colorado Medical Marijuana Code”) to implement Amendment 20 to the Colorado Constitution authorizing the use of marijuana for medical purposes; and

WHEREAS, subsequent to the adoption of the Colorado Medical Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-1, Series 100 through 1400, Medical Marijuana Rules; and

WHEREAS, subsequent to the enactment of the Medical Marijuana Code, Colorado voters enacted Amendment 64 to the Colorado Constitution (Article XVIII, §16 to the Constitution) authorizing specified non-medical marijuana establishments and non-medical marijuana use, now known as “retail” marijuana establishments and use; and

WHEREAS, pursuant to Amendment 64, the General Assembly enacted the Colorado Retail Marijuana Code (CRS §12-43.4-101, et seq., hereafter, “Colorado Retail

Marijuana Code”) governing retail marijuana establishments and use as more particularly described in the Colorado Retail Marijuana Code; and

WHEREAS, subsequent to the adoption of the Colorado Retail Marijuana Code, the Colorado Department of Revenue adopted 1 CCR 212-2, Series 100 through 1400, Retail Marijuana Rules; and

WHEREAS, pursuant to Amendment 64, and the Colorado Retail Marijuana Code, including specifically, §§12-43.4-104(3) and 309(1), municipalities may adopt regulations governing the time, place, manner and number of retail marijuana establishments, which may include a local licensing requirement, that are at least as restrictive as the provisions of the Retail Marijuana Code; and

WHEREAS, 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 thereof; and

WHEREAS, the Town Council has considered the testimony and opinions of persons interested in marijuana regulation at public work sessions and at public hearings; and

WHEREAS, the Town Council has determined that adopting regulations governing the time, place and manner for operating retail marijuana establishments within the Town will serve the health, safety and welfare of the community; and

WHEREAS, the Town Council has determined that the efficient administration of medical marijuana and retail marijuana laws and regulations encourages that it adopt a single set of regulations applicable to both medical marijuana and retail marijuana to the extent that doing so conforms to the requirements of the Medical Marijuana Code and the Retail Marijuana Code; and

WHEREAS, the Town Council finds it is in the interest of public health, safety and welfare that the Council adopt regulations concerning the licensing of certain medical and retail marijuana businesses; and

WHEREAS, to permit Town staff and the Town time to prepare for this new licensing process, applications for licenses permitted by such regulations will not be accepted until September 1, 2015.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

I. **Adoption of new Article 5 in Chapter 6.** Chapter 6 of the Pagosa Springs Municipal Code is amended by the adoption of a new Article 5 to read as provided in Exhibit 1 attached hereto and incorporated herein.

II. **Public Inspection.** The full text of this Ordinance, with any amendments, is available for public inspection at the office of the Town Clerk.

III. **Severability.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

IV. **Effective date.** This Ordinance shall become effective and be in force on June 1, 2015.

INTRODUCED, READ, AND ORDERED PUBLISHED BY TITLE ONLY
PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE
CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS,
COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS
REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 5TH
DAY OF MAY, 2015.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED BY
TITLE ONLY PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME
RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA
SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND
PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA
SPRINGS, ON THE ____ DAY OF _____, 2015.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

CERTIFICATE OF PUBLICATION

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 825 (Series 2015) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the 5th day of May, 2015, and was published by title only, along with a statement indicating that a violation of the Ordinance is subject to enforcement and punishment pursuant to Article 3, Chapter 1 of the Pagosa Springs Municipal Code (P.S.M.C.), and specifically Section 1.3.3, which provides for a fine not exceeding \$2,650 or incarceration not to exceed one year, or both, that violation of the ordinance constitutes a public nuisance that may be abated pursuant to Article 2, Chapter 11 of the P.S.M.C., that the Town may seek injunction, abatement, or restitution in case of violation, and any other remedies provided by law or equity, and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2015, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this __ day of _____, 2015.

April Hessman, Town Clerk

(S E A L)

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 825 (Series 2015) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the __ day of May, 2015, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the

Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2015.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this ____ day of _____, 2015.

April Hessman, Town Clerk

(S E A L)

**CHAPTER 6
BUSINESS REGULATIONS**

**ARTICLE 5
PAGOSA SPRINGS MARIJUANA LICENSING REGULATIONS**

Part 1. GENERAL

Sec. 6.5.1.1 Title

These regulations shall be known and referred to as the “Pagosa Springs Marijuana Licensing Regulations” (referred to herein as the “Regulations”).

Sec. 6.5.1.2 Authority

(1) Section 14 of Article XVIII of the Colorado Constitution permits limited medical uses of marijuana under Colorado law.

(2) Section 16, Article XVIII of the Colorado Constitution permits personal use of marijuana by persons aged 21 years and older under Colorado law.

(3) The Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S. and the Colorado Department of Revenue’s Medical Marijuana Rules adopted at 1 CCR 212-1, Series 100 through 1400 (the Colorado Medical Marijuana Code and the Colorado Medical Marijuana Rules are collectively referred to as the “Colorado Medical Marijuana Code”).

(4) The Colorado Retail Marijuana Code, article 43.4 of title 12, C.R.S. and the Colorado Department of Revenue’s Retail Marijuana Rules adopted at 1 CCR 212-2, Series 100 through 1400 (the Colorado Retail Marijuana Code and the Retail Marijuana Rules are collectively referred to as the “Colorado Retail Marijuana Code”).

Sec. 6.5.1.3 Purpose. The purpose of the Regulations is to:

(1) Authorize licensing in the Town of Pagosa Springs as provided in §§ 12-43.3-301(2)(a), 12-43.4-104(3) and 12-43.4-301, C.R.S., as amended; to establish specific standards and procedures for local licensing of marijuana-related business and establishments; and to protect the health, safety, and welfare of the residents, consumers and patients of Pagosa Springs by

prescribing the time, place and manner in which marijuana businesses can be conducted in the Town.

(2) Comply with the Town's obligations under the Colorado Medical Marijuana Code;

(3) Comply with the Town's obligations under Colorado Constitution Art. XVIII, §16(5)(e);

(4) Require that medical marijuana centers, optional premises cultivation operations, and medical marijuana infused products manufacturing facilities, collectively referred to as "Medical Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Medical Marijuana Code;

(5) Require that retail marijuana stores and retail marijuana cultivation facilities, collectively referred to as "Retail Marijuana Establishments," shall operate in a safe manner that does not endanger the public welfare and in a manner that conforms to the Colorado Retail Marijuana Code;

(6) Mitigate potential negative impacts that the Medical Marijuana Establishments and Retail Marijuana Establishments (collectively "Marijuana Establishments") may cause on surrounding properties and persons;

(7) Regulate the conduct of persons owning, operating, and using Marijuana Establishments to protect the public health, safety and welfare;

(8) Establish a nondiscriminatory mechanism by which the Town appropriately regulates the Location and operation of Marijuana Establishments within the Town.

(9) Ban marijuana businesses that are not specifically licensed by the Town including retail marijuana infused products manufacturers and retail marijuana testing facilities.

Sec. 6.5.1.4 Applicability of Regulations

(1) *Applications for local licenses.* The Authority shall receive and process all applications for Marijuana Establishments beginning on September 1, 2015.

(2) *Dual Licenses.* Operation of a licensed medical marijuana center and a retail marijuana store and/or an optional premises cultivation facility and

a retail marijuana cultivation facility is permitted so long as appropriate State and local licenses have been issued and remain valid and active for both operations. No dual medical marijuana center and retail marijuana store is permitted to sell marijuana to persons younger than twenty-one years of age, except that medical marijuana products may be sold to a person at least eighteen years of age, as allowed by State law.

(3) *No entitlement of vested right.* No person shall have any entitlement or vested right to licensing under these regulations, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, Pagosa Springs zoning approvals, or Pagosa Springs building permits. To lawfully engage in the business of selling, cultivating, or manufacturing marijuana in the Town, all persons must obtain a license under these Regulations. Such a license is a revocable privilege subject to the will and scrutiny of local and state authorities.

(4) These Regulations apply only within the Town of Pagosa Springs, Colorado.

Sec. 6.5.1.5 Definitions

(1) Unless otherwise expressly provided, the definitions in the Colorado Medical Marijuana Code, including the definitions in C.R.S. §12-43.3-104, shall apply in these Regulations with respect to Medical Marijuana Establishments.

(2) Unless otherwise expressly provided, the definitions in the Colorado Retail Marijuana Code, including the definitions in C.R.S. §12-43.4-103 and §12-43.4-305(1), shall apply in these Regulations with respect to Retail Marijuana Establishments.

(3) The following words, terms and phrases, when used in these Regulations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) “*Applicant*” means any person making an application for a license under this Article.
- (b) “*Authority*,” “*Pagosa Springs Local Licensing Authority*” and “*Local Licensing Authority*” have the same meaning for the purposes of these Regulations.

- (c) "*Good Cause*", for purposes of refusing or denying a license issuance, renewal or transfer, means:
- (i). The Licensee or Applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of these Regulations, the Colorado Medical Marijuana Code, the Colorado Retail Marijuana Code, as applicable;
 - (ii). The Licensee or Applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the State or Local Licensing Authority;
 - (iii). The Licensed Premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located; or
 - (iv). The Licensed Premises have been inactive without justification for at least one year.
- (d) "*Licensed Premises*" means the premises specified in a license under these Regulations, which are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell or test medical marijuana and/or retail marijuana in accordance with the provisions of the Colorado Medical Marijuana Code or Colorado Retail Marijuana Code, as applicable, and these Regulations. Licensed Premises includes an off-premises storage facility owned, operated or used by the Licensee.
- (e) "*Licensee*" means a person licensed pursuant to these Regulations.
- (f) "*Location*" means a particular parcel of land that may be identified by an address or other descriptive means.
- (g) "*Marijuana*" means all parts of the plant of the genus cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound,

manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or its resin, including marijuana concentrate but shall not include industrial hemp, the fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

- (h) “*Marijuana club*” means an entity or place of assembly that allows members and their guests, or any other persons, to consume marijuana or marijuana products whether for-profit or not-for-profit. Marijuana clubs shall not include social gatherings within a residential zoning district of adults twenty-one (21) years of age and older as guests of a resident at the Location, where a fee is not charged, goods are not sold, and no profit is made by the individual hosting the gathering.
- (i) “*Marijuana Establishment*” means a Medical Marijuana Establishment or a Retail Marijuana Establishment
- (j) “*Medical Marijuana Establishment*” means a medical marijuana center, medical marijuana-infused products manufacturer, and/or optional premises cultivation operation, each as defined in the Colorado Medical Marijuana Code.
- (k) “*Owner*” means any person having a beneficial interest, as defined by the State Licensing Authority, in a Medical Marijuana Establishment or a Retail Marijuana Establishment.
- (l) “*Patient*” shall have the same meaning as set forth in Article XVIII, Section 14(1) of the Colorado Constitution.
- (m) “*Premises*” means a distinctly identified, as required by the State Licensing Authority, and definite Location, which may include a building, a room, or any other definite contiguous area.
- (n) “*Primary Care-giver*” or “*Primary Caregiver*” shall have the same meaning as set forth in Article XVIII, Section 14(1) of the Colorado Constitution and Section 25-1.5-106, C.R.S.

- (o) “*Retail Marijuana Establishment*” means a retail marijuana store, and/or retail marijuana cultivation facility, each as defined in the Colorado Retail Marijuana Code.
- (p) “*Retail Marijuana products manufacturer*” shall have the same meaning as set forth in Section 12-43.4-103, C.R.S.
- (q) “*Retail Marijuana testing facility*” shall have the same meaning as set forth in Section 12-43.4-103, C.R.S.
- (r) “*School*” means and includes elementary school, junior high school, high school, charter school, the principal campus of a college, university, or seminary.
- (s) “*Sale*” or “*Sell*” includes to exchange, barter, or traffic in, to solicit or receive and order except through a Licensee licensed under these Regulations, to deliver for value in any way other than gratuitously, to peddle or possess with intent to sell, or to traffic in for any in for any consideration promised or obtained directly or indirectly.

Sec. 6.5.1.6 Adoption of Colorado Medical Marijuana Code, Colorado Retail Marijuana Code

- (1) Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Medical Marijuana Code, all of the provisions of the Colorado Medical Marijuana Code, as amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Medical Marijuana Establishments.
- (2) Except where the provisions expressly set forth in these Regulations are inconsistent with or differ from the Colorado Retail Marijuana Code, all of the provisions of the Colorado Retail Marijuana Code, as amended from time-to-time, are adopted herein by this reference, and apply to all applications received and licenses issued by the Local Licensing Authority with respect to Retail Marijuana Establishments.
- (3) If there is a conflict between the provisions of these Regulations and the Colorado Medical Marijuana Code or the Colorado Retail Marijuana Code, the provisions of these Regulations control to the fullest extent permitted by applicable law.

Sec. 6.5.1.7 Licenses and Grant of Authority for Dual Licenses

(1) The Authority is authorized to issue the following local licenses should the Applicant fulfill the requirements: medical marijuana center license; optional premises cultivation license; medical marijuana-infused products manufacturing license; retail marijuana store license; and retail marijuana cultivation facilities license. The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.

(2) A person may operate a licensed medical marijuana center, optional cultivation facility or medical marijuana-infused products manufacturing facility and any licensed Retail Marijuana Establishment at the same Location if the Local Licensing Authority determines that the operations will meet the requirements of these Regulations.

(3) The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana. A valid license shall be required from the State of Colorado as provided by the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code.

Sec. 6.5.1.8 Town Reservations

(1) Adoption of these Regulations is not intended to waive or otherwise impair any portion of the local option available under Colorado Constitution Art. XVIII, §16(5)(f), C.R.S. §12-43.3-106, or C.R.S. 12-43.3-104.

(2) Adoption of these Regulations is not intended to waive or otherwise impair the Town's authority to adopt specific or different standards or other regulations for the issuance and administration of local licenses from time-to-time.

Sec. 6.5.1.9 Operation Limitations

(1) Licensees shall be subject to the following additional operation limitations:

- (a) All product storage shall be indoors. Marijuana products and accessories or paraphernalia used or intended to be used to consume them shall not be visible from a public sidewalk or right-of-way or an adjacent property.

- (b) Each Marijuana Establishment shall be operated from a permanent Location. No Marijuana Establishment shall be permitted to operate from a moveable, mobile or transitory Location. Notwithstanding anything to the contrary herein, delivery of medical marijuana is permissible if it complies with state law provided it originates from a non-moveable, fixed, licensed Location and such delivery sales account for less than ten (10%) percent of the Medical Marijuana Establishments total sales.
- (c) A Medical Marijuana Center and Retail Marijuana Store may be open for the sale of medical or retail marijuana only between the hours of 8 a.m. to 7 p.m.
- (d) No Marijuana Establishment may use metals, butane, propane, or other solvent or flammable product, or produce flammable vapors to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes. The Authority in its sole and unfettered discretion may, at any time, require an Applicant or Licensee to engage an industrial hygienist, at the Applicant's or Licensee's cost, to review the manner in which butane, propane or other solvents or flammable products are stored, used or controlled on the licensed premises for the purpose of opining on the safety precautions in place. Such industrial hygienist may make recommendations which the Town may require the Applicant or Licensee to implement.
- (e) No Retail Marijuana Establishment is permitted to sell marijuana to persons younger than twenty-one years of age and must post signage that clearly states: "You must be at least 21 years old to enter." No Medical Marijuana Establishment is permitted to sell marijuana to persons younger than eighteen years of age and must post signage that clearly states: "You must be at least 18 years old to enter" where any marijuana products are visible.
- (f) All retail marijuana labels must contain the statement: "It is illegal to transfer or sell retail marijuana or retail marijuana products to anyone under the age of 21." All medical marijuana labels must contain the statement: "It is illegal to

transfer or sell medical marijuana or medical marijuana products to anyone under the age of 18.”

- (g) For dual medical marijuana center and retail marijuana stores, the business shall verify the proof of age of every person entering the business with an electronic ID scanner. An “electronic ID scanner” is a device that is capable of quickly and reliably confirming the validity of an identification using computer processes.
- (h) All cultivation, production, distribution, storage, display, and sales of marijuana and marijuana-infused products must not be visible from the exterior of the business.
- (i) All retail sales of retail marijuana must be in person, directly to the purchaser. No sales may be finalized by telephone, internet, or other means of remote purchase.
- (j) All grow lamps must be recycled and not deposited in a trash receptacle or landfill. The time, date, and Location of all lamps recycled must be documented and available for inspection.
- (k) Marijuana Establishments may not distribute to a consumer, marijuana or marijuana-infused products free of charge.
- (l) Marijuana Establishments are subject to the requirements of the Land Use and Development Code including the Pagosa Springs Sign Code and the restrictions on advertising and marketing under the Colorado Retail Marijuana Code. In addition, no advertisement for marijuana or marijuana products are permitted on signs mounted on vehicles, hand-held or other portable signs, handbills, leaflets or other flyers directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property. This prohibition shall not apply to (1) any advertisement contained within a newspaper, magazine or other periodical of general circulation within the Town or on the internet; or (2) advertising which is purely incidental to sponsorship of a charitable event not geared to or for the benefit of children or youth. Provided, further, no exterior signage shall use the word “marijuana,” “cannabis” or any other word, phrase, symbol, acronym or combination of letters or numbers commonly understood to refer to marijuana.

- (m) A marijuana business may sponsor a charitable, sports, or similar event, but a marijuana business must not engage in advertising at, or in connection with, such an event unless the marijuana business has reliable evidence that no more than 30 percent of the audience at the event and/or viewing advertising in connection with the event is reasonably expected to be under the age of 21.
- (n) All Marijuana Establishments shall collect and remit all applicable sales taxes in a timely manner. The state and Town license to engage in a Medical Marijuana Establishment or Retail Marijuana Establishment shall be posted along with the State sales tax license.
- (o) Any Marijuana Establishments within the Town shall be required to have a fully operational alarm system which must be properly maintained. Such alarm systems shall have video surveillance coverage of the premises at all times and shall have redundant power supplies and circuitry to prevent deactivation, either intentional or unintentional. If an alarm system is deactivated, the company monitoring the systems must immediately notify the Pagosa Springs Police Department.
- (p) Marijuana Establishments shall be equipped with a steel door or a solid wood core door with dead bolts in place and engaged for purposes of securing the space or Location where marijuana or marijuana-infused products are stored, or where any marijuana transaction is to take place. In addition thereto, each marijuana business shall be equipped with at least one silent alarm for every 500 square feet of interior business space.
- (q) It shall be unlawful for any marijuana business to employ any person who is not at least 21 years of age.
- (r) No Marijuana Establishment shall be managed by any person other than the Licensee or the business manager listed on the application for the license, renewal application, or change of manager application. One such Licensee or business manager shall be responsible for all activities within the licensed premises during all times when the business is open and in the case of an emergency, as determined by the Chairperson of the Authority available to be on the premises within thirty minutes

of a demand for such person to be present being made at the establishment.

- (s) There shall be posted in a conspicuous Location in each Medical Marijuana Center and Retail Marijuana Store a legible sign containing the following warnings:
 - (i). A warning that the use of marijuana may impair a person's ability to drive a motor vehicle or operate machinery, and that it is illegal under state law to drive a motor vehicle or operate machinery when under the influence of or impaired by marijuana;
 - (ii). A warning that possession and distribution of marijuana is a violation of federal law; and
 - (iii). That smoking of marijuana in public is illegal.
- (t) Any and all such records required to be maintained under the Medical Marijuana Code or the Retail Marijuana Code shall be open at all times during business hours for inspection and examination by the Town Manager or his or her duly authorized representative(s). Provided, further, the Town may require the Licensee to furnish such information as it considers necessary for the proper administration of these Regulations.
- (u) That a medical marijuana center shall obtain at least 70% of its medical marijuana inventory from an optional premises cultivation operation located within Archuleta County.
- (v) That a retail marijuana store shall obtain at least 70% of its retail marijuana inventory from a retail cultivation facility located within Archuleta County.

(2) By accepting a Medical Marijuana Establishment license or a Retail Marijuana Establishment license, the Licensee is providing consent to disclose any information received by the Town. Any records provided by the Licensee that include patient or Primary Caregiver confidential information may be submitted in a manner that maintains the confidentiality of the document(s) under the Colorado Open Records Act [C.R.S. §24-72-201, *et seq.*] or other applicable law. Any document that the Applicant considers eligible for protection under the Colorado Open Records Act shall

be clearly marked as confidential and the reasons for such confidentiality shall be stated on the document including but not limited to reference to the statutory authority under which confidentiality is claimed. The Town will not disclose documents appropriately submitted under the Colorado Open Records Act as confidential documents to any party other than law enforcement agencies.

(3) The Town may require an audit to be made of such books of account and records as it may deem necessary. Such audit may be made by an auditor selected by the Town, who shall likewise have access to all books and records of such Licensee. The expense of any audit determined to be necessary by the Town, shall be paid by the Town; provided, however, should the audit reflect a failure of the Licensee, in whole or in part, to timely remit all sales taxes due to the Town, the expense of the audit shall be paid by the Licensee.

(4) Acceptance of a Medical Marijuana Establishment license of any type, a Retail Marijuana Establishment license of any type constitutes consent by the Licensee, owners, managers and employees of such business to permit the Town Manager or his authorized representatives, to conduct routine inspections of the licensed Medical marijuana business or any records related thereto to assure compliance with this Ordinance or any other applicable law, rule or regulation.

Sec. 6.5.1.10 Location Restrictions

(1) Marijuana Establishments are allowed in the Mixed-Use Corridor, Mixed-Use Town Center, Commercial and Light Industrial zone districts.

(2) No Marijuana Establishment shall be licensed to operate at a Location that is within 1000 feet from any school, alcohol or drug treatment facility or licensed day care facility whether located within or outside the corporate limits of the Town. The suitability of a Location for the Marijuana Establishment shall be determined at the time of the issuance of the first license for such business. The fact that changes in the neighborhood that occur after the issuance of the first license might render the site unsuitable for a Marijuana Establishment under this section shall not be grounds to suspend, revoke or refuse to renew the license for such business so long as the license for the business remains in effect. Nothing within this section shall preclude the establishment of a school or licensed day care facility within 1000 feet of a pre-existing Marijuana Establishment.

(3) No Marijuana Establishment shall be licensed to operate at a Location that is within 250 feet of a church or residential zone district, as such zone districts are described in the Land Use and Development Code and as defined in the Archuleta County zoning definitions, unless such Location is approved under a conditional use permit by the Town Council at a public hearing with required public notification as described in Section 2.3.6 of the Land Use and Development Code.

(4) The distances referred to in this Section are to be computed by direct measurement from the nearest property line of the land used for the school or licensed day-care facility or land which comprises residential or planned unit development zoned area to the nearest portion of the building in which Medical Marijuana Establishment or Retail Marijuana Establishment products are to be sold.

Part 2. LOCAL LICENSING AUTHORITY

Sec. 6.5.2.1 Establishment of Local Licensing Authority

- i. The Local Licensing Authority shall be the Town Council for the Town of Pagosa Springs.

Sec. 6.5.2.2 Powers

- ii. The Local Licensing Authority shall have the powers described in the Medical Marijuana Code and Retail Marijuana Code to issue licenses and the power to hear and determine at a public hearing any contested local license denial, any complaints against a Licensee, and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held.

Sec. 6.5.2.3 Administrative Action

- iii. Except as otherwise provided in these Regulations, the Local Licensing Authority may take action administratively, without hearing, by its Chairperson. Such administrative action is permitted on renewal applications as described herein.

Part 3. LICENSES

Sec. 6.5.3.1 Medical Marijuana Licenses

The Local Licensing Authority shall issue local licenses to Applicants only for the purpose of operating a Medical Marijuana Establishment pursuant to the Medical Marijuana Code who fulfill the requirements for one of the following:

- (a) medical marijuana center;
- (b) medical marijuana-infused products manufacturer;
- (c) optional premises cultivation operation.

Sec. 6.5.3.2 Retail Marijuana Licenses

The Local Licensing Authority shall issue local licenses to Applicants only for the purpose of operating a Retail Marijuana Establishment pursuant to the Retail Marijuana Code who fulfill the requirements for one the following:

- (a) retail marijuana store; and
- (b) retail marijuana cultivation facility.

Sec. 6.5.3.3 Nature of Local License

A license pursuant to these Regulations shall apply to a specific person, a particular Marijuana Establishment, and a specific Premises, and will not be transferrable to another person, a different Marijuana Establishment, or different Premises except as provided by these Regulations. An application to “convert” a state license for a Medical Marijuana Establishment to a Retail Marijuana Establishment license requires an application for a new license for purposes of these Regulations and, if the Medical Marijuana Establishment license being converted was issued by the Town, the surrender of that license to the Town.

Sec. 6.5.3.4 Condition of Local License for Release of Town

It shall be a condition of all local licenses that the Applicant/Licensee releases the Town from liability to the Applicant/Licensee and also agrees to indemnify, defend and hold harmless the Town from liability arising from injuries and damages.

Part 4. LICENSES REQUIRED

Sec. 6.5.4.1 Unlawful Acts

(1) For any business, establishment, facility or activity which is required by the Medical Marijuana Code to have a state license, it is unlawful and a violation of these Regulations to operate without both a current state license and a current license issued by the Local Licensing Authority pursuant to these Regulations of the same type and for the same activity at the same Location.

(2) For any business, establishment, facility or activity which is required by the Retail Marijuana Code to have a license, it is unlawful and a violation of these Regulations to operate without both a state license and a license issued by the Local Licensing Authority pursuant to these Regulations of the same type and for the same activity at the same Location.

(3) A person shall not have a financial interest in a license issued pursuant to these Regulations that has not been reported to the Local Licensing Authority and State Licensing Authority. This subsection shall not apply to banks, savings and loan associations or industrial banks supervised and regulated by an agency of the state or federal government.

(4) It is unlawful for any person to operate, cause to be operated, or permit to be operated, any retail marijuana infused products manufacturing business, a retail marijuana products testing facility or a marijuana club within the Town whether as a primary land use, an incidental use or as a home occupation, and all such uses are hereby prohibited in any Location within the Town.

(5) The conduct of any activity or business in violation of this Article is hereby declared to be a public nuisance, which may be abated pursuant to the provisions for the enforcement of nuisances as provided in Article 2 of Chapter 11 of this Code. All violations of this Article shall be considered an emergency violation as provided in Section 11.2.2 of this Code.

(6) The Town is specifically authorized to seek an injunction, abatement, restitution, or any other remedy necessary to prevent, enjoin, abate, or remove the violation.

(7) Any remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law or in equity.

Sec. 6.5.4.2 Coordination of Local and State Licenses

- (1) If a Medical Marijuana Establishment or a Retail Marijuana Establishment has been authorized by the State of Colorado to operate by virtue of the State having not acted on their license application within forty-five (45) days then the establishment may operate pending the issuance of a state license.
- (2) Upon denial of a State license for a Medical Marijuana Establishment or Retail Marijuana Establishment which has been issued a license under these Regulations, the local license shall be revoked.
- (3) If a license is suspended or revoked by the State Licensing Authority, the Licensee shall immediately cease operation of the Marijuana Establishment in this County until the state license is re-instated during the term of a valid local license. The Local Licensing Authority may suspend or revoke the local license upon the suspension or revocation of the State license.
- (4) Upon the surrender of a State license for a Medical Marijuana Establishment or Retail Marijuana Establishment which has been issued a license under these Regulations, the local license shall be deemed surrendered and of no further effect. Existing marijuana products and/or inventory shall be disposed of as provided in any order of suspension or revocation.

Sec. 6.5.4.3 Duration of Local Licenses

- (1) Except as provided herein, any local license issued under these Regulations shall be valid for a period of one year from the date of issuance unless sooner revoked, surrendered by the Licensee, or otherwise terminated. Notwithstanding the foregoing, the Local Licensing Authority may change the duration to no fewer than ten months and no more than fourteen months if deemed appropriate to synchronize the license periods of the license and the corresponding license of the same type for the same activity at the same Location issued by the State Licensing Authority pursuant to the Medical Marijuana Code or Retail Marijuana Code, as applicable.
- (2) A Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Establishment license will assume the balance of

the license term previously held by the surrendered Medical Marijuana Establishment license.

(3) If a court of competent jurisdiction having jurisdictional effect in Colorado determines that the issuance of local licenses, or some of them, violates federal law, and such decision becomes final and un-appealable, all such licenses issued under these Regulations shall be deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the Licensee.

Sec. 6.5.4.4 License Contents

The licenses issued pursuant to these Regulations must specify the date of issuance, the period the license is effective, the name of the Licensee, and the Premises licensed.

Part 5. LICENSE APPLICATIONS

Sec. 6.5.5.1 Licensing Procedure.

The Authority shall consider and act upon all complete local license applications as authorized by these regulations. The Authority shall defer to the State to enforce compliance with the requirements in the Colorado Medical Marijuana Code and the Colorado Retail Marijuana Code and any other State regulations not covered by these Regulations. The Authority shall grant or deny a license based solely upon the Authority's investigation and findings, and a public hearing shall be required. The Authority shall deny any application that is not in full compliance with these regulations.

Sec. 6.5.5.2 Application forms.

(1) All applications for medical marijuana center licenses; optional premises cultivation licenses; and medical marijuana-infused products manufacturing licenses, shall be made upon forms provided by the state and Local Licensing Authority and shall include the following supplemental materials:

- (a) identity of the owner of the property on which the premises is located;
- (b) a site plan of the Premises;
- (c) a list of all other uses on the property;

- (d) the number of vehicle trips per day expected to be generated by the business;
- (e) the expected source and level of water use for the premises;
- (f) permits or other applicable documentation related to well use, septic system use, and water sanitation;
- (g) a copy of the State sales tax license for the business;
- (h) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises;
- (i) an explanation of any enforcement action taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the Applicant during the previous 12 months;
- (j) a description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Premises (or the property of which the Premises are a part); Material Safety Data Sheets for each; the Location of use and storage of each shall be identified on the site plans;
- (k) a plan for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For Marijuana Establishments that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems mitigating odor leaving the premises. For Marijuana Establishments that produce marijuana products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process;
- (l) an inspection of the Licensed Premises fully equipped per the current plan of operation from a state electrical inspector,

master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes;

- (m) for optional premises cultivation and medical marijuana-infused products manufacturing license applications, information about which medical marijuana center is associated with the business;
- (n) for medical marijuana centers, confirmation that the Location of the optional premises cultivation facility associated with the center is located within Archuleta County and that the center will be obtaining at least 70% of its medical marijuana from that facility; and
- (o) a detailed drawing, with scale of the floor plan.

(2) All applications for retail marijuana store licenses, and retail marijuana cultivation facilities licenses shall be made upon forms provided by the state or Local Licensing Authority and shall include:

- (a) a site plan of the premises;
- (b) a list of all proposed changes or modifications to the premises, including any such proposed changes that are purposed because of State licensing requirements;
- (c) a narrative together with drawings for how the business will manage parking for customers and employees, including overflow parking if demand exceeds the number of spaces at the premises;
- (d) for applications for dual medical marijuana center and retail marijuana store, specific information on the nature and Location of required signage;
- (e) an explanation of any enforcement action taken by the state or any other jurisdiction with respect to any Marijuana Establishment license held by the Applicant during the previous 12 months;

- (f) a description of all toxic, flammable, hazardous or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Premises (or the property of which the Premises are a part); Material Safety Data Sheets for each; the Location of use and storage of each shall be identified on the site plans;
 - (g) a copy of the State sales tax license for the business;
 - (h) A plan for ventilation of the facilities that describes the ventilation systems that will be used to mitigate any odor of marijuana off the premises of the business. For Marijuana Establishments that grow marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises;
 - (i) an inspection of the Licensed Premises fully equipped per the current plan of operation from a state electrical inspector, master electrician licensed in Colorado or electrical engineer registered in Colorado for compliance with applicable electrical codes;
 - (j) for retail marijuana stores, confirmation that the Location of the retail marijuana cultivation facility associated with the center is located within Archuleta County and that the store will be obtaining at least 70% of its retail marijuana from that facility; and
 - (k) a detailed drawing, with scale of the floor plan.
- (3) A site plan of the Premises will be scaled and show the following:
- (a) The scale used;
 - (b) North arrow designating true north;
 - (c) Property boundaries of the Premises, indicating front, rear and side lines;

- (d) Location of all proposed buildings/structures and existing buildings/structures that will remain;
- (e) Locations and dimensions of all existing and proposed roads, on and adjacent to the Premises, driveways, easements, rights-of-way, existing and proposed utilities;
- (f) Setbacks from buildings and structures, measured in feet (measured from the nearest lot line, road right-of-way or platted right-of-way, whichever is closest, to the eaves or projections from the building or from decks, for all sides of a structure);
- (g) Platted building envelope(s), if applicable;
- (h) Parking areas and spaces;
- (i) Location of signs/advertising, outdoor lighting, landscaping and/or fencing, structural screening elements;
- (j) Total acreage or square footage of the Premises; and
- (k) Total square footage of all buildings and total square footage of building footprints.

(4) All applications for licenses involving cultivation of marijuana shall submit a plan that specifies whether and how CO₂ gas will be used in the cultivation and the Location of the generation, use and storage shall be identified on the site plans.

(5) The Authority may, at its discretion, waive specific submission requirements or require the submission of additional materials as may be useful in making a determination under these regulations.

(6) An Applicant must have filed a complete application for a license of the same type for the same activity at the same Location to the State Licensing Authority before it may apply to the Local Licensing Authority.

(7) The Applicant must update any of the information required of an application by this Section in the event of any material change between the time the application is first submitted and the issuance or denial of the license.

(8) By submitting a license application, the Applicant and, if the Applicant is not the owner, the owner of the Premises to be licensed, certify that the Applicant has received permission from the Premises owner to allow inspections as may be required under the Medical Marijuana Code, Retail Marijuana Code or these Regulations for purposes of local licensing. In addition, the owner of the Premises and the Applicant authorize the Authority and its designee, departments and agencies of the Town, the Pagosa Fire Protection District or its designee, and the San Juan Basin Health Department or its designee to enter upon and inspect the Premises for the purposes of implementing these Regulations. Such inspections shall take place at reasonable times and before issuance of a local license. This section shall not in any way limit any inspection authority of any of these departments and agencies authorized under any other provision of law.

Sec. 6.5.5.3 Processing Applications

(1) No application for a license for any type of Marijuana Establishment may be submitted to the Local Licensing Authority before September 1, 2015.

(2) Applications shall be submitted to the Town Clerk in care of the Authority.

(3) Applications will be deemed submitted only when complete and when accompanied by the applicable fees. Notwithstanding having deemed an application complete, the Authority may, at its discretion, require the submission of additional information and materials as may be useful in investigating the application and making a determination under these Regulations.

(4) Upon a determination that a complete application, including all required forms and fees, for a license has been received, the Authority will refer copies of the application or relevant portions of it to the following agencies or departments for the following purposes. These agencies and departments must submit their written findings and conclusions to the Town Manager no later than thirty days after the referral.

(a) Building Department: For determination of compliance with Town building code provisions. The Building Department also shall conduct the post-approval inspections required by these Regulations as a condition of license approval.

- (b) Planning Department: For determination of compliance with the Land Use and Development Code.
- (c) San Juan Basin Health Department: For determination of compliance with sanitation system regulations and whether there are unresolved public health enforcement actions with respect to the Premises.
- (d) Any other Town department deemed relevant in the circumstances: For determination of compliance with its regulations.
- (e) Pagosa Springs Police Department: For investigation as requested by the Local Licensing Authority.
- (f) Pagosa Fire Protection District for its determination of compliance with any fire code provisions.
- (g) Town departments shall inspect the Premises as deemed appropriate or requested by the Local Licensing Authority to confirm compliance with building and equipment standards imposed by the Medical Marijuana Code, Retail Marijuana Code and these Regulations.

(5) The Local Licensing Authority may request that the State Licensing Authority advise the Local Licensing Authority of any items the State Licensing Authority finds in its investigation that could result in the denial of the state license. If the Local Licensing Authority receives such a notice from the state, it shall suspend its review of the local license until it receives a notice from the State Licensing Authority that the issues have been corrected and the Applicant is eligible for a state license.

(6) The Local Licensing Authority shall endeavor to take final action on a license application within ninety days after a complete application, together with all applicable fees, has been submitted. If Colorado Constitution Article XVIII, §16(5)(h) or (i) apply to require the Local Licensing Authority to issue a license in lieu of license issuance by the state, a final decision on the application will be taken within ninety days of receipt of a complete application and all fees therefor.

(7) The Applicant shall be responsible for submitting any required application, fees and materials directly to the State Licensing Authority under the Medical Marijuana Code and the Retail Marijuana Code.

Part 6. APPROVAL CRITERIA

Sec. 6.5.6.1 Basic Criteria

Before approving a local license, the Authority shall determine that all of the following requirements have been met by the Applicant:

- (1) The appropriate application is complete and the full application fee, license fee and operating fee have been paid;
- (2) The Town has determined that the use is permitted at the Location of the Premises and the owner or operator has obtained any required approvals under the Land Use and Development Code;
- (3) No zoning violations exist on the Premises;
- (4) All proposed signs meet the requirements of the Pagosa Springs Sign Code and these Regulations;
- (5) All proposed lighting meets the Land Use and Development Code;
- (6) Any structure in which the use is located has been inspected by the Town Building Official or his or her designee, the structure complies with all applicable Code provisions, and all necessary building permits have been obtained from the Town;
- (7) The Premises complies with any site specific development requirements and all provisions of the applicable building code and fire code;
- (8) The Premises is not subject to unresolved enforcement action by the San Juan Basin Health Department;
- (9) All property taxes have been paid and no tax liens exist on the Premises;
- (10) The Applicant and Premises are in compliance with all other applicable Town regulations;
- (11) The application, including any required attachments and submissions, does not contain a material falsehood or misrepresentation; and

(12) The proposed Licensed Premises are located in a Location permitted by these Regulations.

Sec. 6.5.6.2 Applicant Burden of Proof

The Applicant bears the burden of proving it meets all licensing requirements.

Sec. 6.5.6.3 State License Must Be Issued First

Before a local license may be issued, the Applicant must have applied for a State license of the same type for the same activity at the same Location as provided in the Medical Marijuana Code or Retail Marijuana Code, as applicable. If the Local Licensing Authority determines it is impracticable to withhold action on an application which it would otherwise approve until a State license is issued, a local license may be issued – conditioned on the issuance of the State license – if it is demonstrated to the satisfaction of the Local Licensing Authority that the Applicant is eligible to receive its state license of the same type for the same activity at the same Location based on information provided by the State Licensing Authority.

Sec. 6.5.6.5 Buildings Must be Ready for Occupancy

No license shall be issued after approval of an application until the building in which the business is to be conducted is ready for occupancy (and, a building permit certificate of occupancy issued, if applicable) with such furniture, fixtures, and equipment in place as is necessary to comply with the applicable provisions of these Regulations, and then only after inspection of the Premises has been made by the Local Licensing Authority or State Licensing Authority to determine that the Applicant has complied.

Part 7. ACTION ON APPLICATION; HEARINGS

Sec. 6.5.7.1 Action on Applications

The Local Licensing Authority shall consider and act upon all complete local license applications as authorized by these Regulations. The Authority shall deny any application that is not in full compliance with these Regulations.

Sec. 6.5.7.2 Public Hearings and Public Notice

(1) A public hearing shall be held to consider every application for a license subject to the limitations with respect to applications to renew licenses as provided in Part IX hereof.

(2) A public hearing shall be held not less than thirty days after the date the completed application is submitted. The Authority shall cause to prepare and the Applicant shall post and publish public notice thereof not less than ten days before the hearing. The Applicant shall give public notice by posting a sign in a conspicuous place on the Premises for which a local license application has been made and by publication in a newspaper of general circulation in the Town.

(3) Notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, and the name and phone number of the Applicant, and such other information as may be required to fully apprise the public of the nature of the application. If the Applicant is a partnership, the sign shall contain the names and addresses of all partners, and if the Applicant is a corporation, association, or other organization, the sign shall contain the names and addresses of the president, vice-president, secretary, and manager or other managing officers.

(4) Notice given by publication shall contain the same information as that required for signs.

(5) If the building in which the marijuana is to be sold, cultivated, processed or tested is in existence at the time of the application, any sign posted as required in this Section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the Applicant shall post the sign upon the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

Sec. 6.5.7.3 Preliminary Findings

Not less than five days before the date of hearing, if one has been set, or before taking action on the application, the Local Licensing Authority shall make known its findings based on its investigation in writing to the Applicant. If a public hearing has not already been set, the Applicant may

request a public hearing which request shall be granted unless the recommendation is for approval.

Sec. 6.5.7.4 License Findings

(1) Before entering any decision approving, conditionally approving or denying the application, the Local Licensing Authority shall consider, except where these Regulations specifically provide otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts, and any other pertinent matters affecting the qualifications of the Applicant for operating the type of Medical or Retail Marijuana Establishment proposed.

(2) Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a finding as to the good moral character of the Applicant in accordance with the standards and procedures set forth in the Medical Marijuana Code and the Retail Marijuana Code. In so doing, the Authority may incorporate any findings as to good moral character previously made by the State Licensing Authority. The Authority shall not be required to perform a criminal background check:

- (a) if the State Licensing Authority has performed a background check on the Applicant to the satisfaction of the Authority; or
- (b) if the Authority approves a license conditioned on the completion and successful review of the background check by the State Licensing Authority.

(3) Before entering any decision approving, conditionally approving or denying the application, the Authority shall make a specific finding of fact as to whether the proposed Licensed Premises is located within any distance restrictions established pursuant to Section 1.8 of these Regulations.

Sec. 6.5.7.5 Decision on Application

(1) The Local Licensing Authority has authority to refuse to issue, renew or transfer any license for Good Cause.

(2) The Local Licensing Authority may approve an application subject to conditions related to these Regulations, the Medical Marijuana Code, the Retail Marijuana Code and the state regulations promulgated pursuant thereto, as applicable.

(3) Within thirty days after the public hearing or completion of the application investigation, the Local Licensing Authority shall issue its decision approving, approving with conditions or denying an application. The decision shall be in writing and shall state the reasons for the decision.

Sec. 6.5.7.6 Notice of Decision

The Local Licensing Authority promptly shall notify the Applicant and the State Licensing Authority of its decision. Notice to the Applicant will be deemed given upon personal delivery or three calendar days after deposit in a depository of the US Postal Service, first class postage paid.

Sec. 6.5.7.7 Review of Local Licensing Authority Decision

If a license is conditionally approved or denied following the public hearing by the Local Licensing Authority, that decision shall be deemed final action and the Applicant's sole remedy is review of the decision pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4).

Part 8. DUTIES OF LICENSEE

Sec. 6.5.8.1 Notice of Changes

(1) A Licensee shall notify the Local Licensing Authority in writing of the name, address, and date of birth of a proposed owner, officer or manager before the new owner, officer or manager begins owning, managing or associating with the operation. The proposed owner, officer, manager and employees must pass a fingerprint-based criminal history record check as required by the State Licensing Authority and obtain the required identification before owning, managing, or associating with the operation. For a complete change of ownership, see Part X.

(2) A Licensee shall report each transfer or change of financial interest in the license to the State and Local Licensing Authorities and receive approval prior to any transfer or change. A report is required for transfers of capital stock of any corporation regardless of numbers or values of shares or size of the corporation.

(3) A Licensee shall report any change of trade name to the Local Licensing Authority before using it.

Sec. 6.5.8.2 Possession of Licensed Premises

At all times, a Licensee shall possess and maintain possession of the Licensed Premises for which the License is issued by ownership, lease, or other arrangement suited for possession of the Premises for the duration of the License.

Sec. 6.5.8.3 Publicly Display Licenses

The Licensee shall conspicuously display the local and the state-issued licenses at all times on the Licensed Premises.

Sec. 6.5.8.4 On-site Access to Occupational Licenses and Registrations

(1) All persons owning, managing, operating, employed by, working in or having access to restricted areas of a Licensed Premises of, any Licensee who are required by the Medical Marijuana Code, Retail Marijuana Code and the state administrative regulations promulgated pursuant thereto, as applicable, to have occupational licenses and registrations must at all times have a valid license and/or registration from the State Licensing Authority. At all times when on the Licensed Premises, all such persons shall have on their person, and conspicuously display, their occupational licenses and registrations required by the State Licensing Authority. Copies of all such licenses issued by the State Licensing Authority shall be provided to the Authority. Provided, however, if (i) a State application for the required occupation license or registration is pending; and (ii) the Town has performed a background check and determined the preferred manager or employee to be temporarily acceptable then compliance with this Section 6.5.8.4 is extend for up to ninety (90) days from the start of their employment.

Sec. 6.5.8.5 Compliance with Laws

A Licensee shall at all times comply with and maintain the Licensed Premises in compliance with all of the terms and conditions of the license; the requirements of these Regulations and all applicable state and local laws.

Sec. 6.5.8.6 Notices of Changes in State License Status

A Licensee shall notify the Local Licensing Authority in writing if its state license of the same type for the same type of activity at the same Location

as that issued by the Local Licensing Authority has been denied, expired, renewed, revoked or transferred. Notice must be in writing, and given to the Town Manager within four business days of the action by the State Licensing Authority. The Licensee shall give a copy of a new or renewed state license to the Local Licensing Authority within four business days of its receipt from the state.

Sec. 6.5.8.7 Notices to Public Safety Agencies

Before commencing operation, a Licensee shall notify the Pagosa Fire Protection District and the local Office of Emergency Management of the identity of all toxic, flammable, hazardous, or other materials regulated by a federal, state or local government having authority (or that would have authority over the business if it was not a marijuana business), that will be used, kept, or created at the Licensed Premises, the Location of such materials, how such materials will be stored, and shall provide Material Safety Data Sheets where applicable. Before commencing operation, a Licensee also shall notify the local firefighting agency and Archuleta County Office of Emergency Management whether CO₂ or CO₂-generating is used on the Licensed Premises, the method and the Location. A Licensee shall promptly, within no more than one week, notify its local firefighting agency and Archuleta County Office of Emergency Management of any changes in this information. All notices shall be in writing, with a copy sent to the Local Licensing Authority.

PART 9. RENEWALS

Sec. 6.5.9.1 Time to Apply for Renewal License

(1) A License is immediately invalid upon its expiration unless a late renewal application is allowed and filed as provided in this Section. Unless otherwise expressly provided in these Regulations, if a license is not renewed by the Local Licensing Authority before its expiration, the Licensee may not operate.

(2) A Licensee desiring a renewal of an existing license must apply for the renewal to the Local Licensing Authority not less than sixty (60) days before the date of expiration of the current license. The Local Licensing Authority, in its discretion, based upon reasonable grounds, may waive the sixty (60) day time requirement but the Local Licensing Authority shall not accept an application for renewal of a license after the date of expiration except as provided in this Section. Reasonable grounds include that the

Licensee has pending a timely-filed application for renewal of its state license. A Licensee who files a renewal application and pays the requisite fees may continue to operate until the Local Licensing Authority takes final action to approve or deny the renewal application.

(3) Notwithstanding the provisions of this Section, a Licensee whose license has been expired for not more than ninety days may file a late renewal application if an application for renewal of the corresponding state license has been accepted by the State Licensing Authority, is pending, and the required fees have been paid. In those circumstances, the Licensee may continue to operate until both the State and Local Licensing Authorities have taken final action on the Licensee's late renewal application unless the State Licensing Authority summarily suspends or denies the license, in which case the Licensee must cease operation immediately.

(4) The application for any renewal shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority. The provisions of Part V shall govern the application form and processing as applicable.

Sec. 6.5.9.2 Action on Application for Renewal

Applications to renew a license shall be approved administratively by the Chairman of the Local Licensing Authority without public hearing unless the Licensee has had complaints filed against it, has a history of violations, or there are allegations against the Licensee that would constitute Good Cause, in which case a public hearing on the renewal application may be set. For purposes of this section, complaints include a recommendation by any referral department or agency to deny renewal.

Sec. 6.5.9.3 Procedures; Action on Application

To the extent applicable, the provisions of Part VII shall govern processing and action on the application for renewal.

Sec. 6.5.9.4 Approval Criteria

The approval criteria in Part VI hereof for approval of a new license shall be applicable to an application for a renewal.

Part 10. TRANSFERS

Sec. 6.5.10.1 No Transfers or Assignment of Licenses

A license issued under these Regulations is not transferable or assignable, including, without limitation, not transferable or assignable to different Premises, or to a different Owner or Licensee, except in accordance with these Regulations. A license is valid only for the person specifically identified on the license and for the specific Location for which the license is issued. Any attempt to transfer or assign a license in violation of these provisions voids the license.

Sec. 6.5.10.2 License Transfers Allowed

A Licensee may transfer or assign all ownership, rights and interests in a local license issued pursuant to these Regulations, or transfer that license to a different Premises within the Town, subject to prior application to, and approval by, the Local Licensing Authority and in compliance with the Medical Marijuana Code, Retail Marijuana Code, and the state regulations promulgated pursuant thereto, as applicable to such transfer or assignment.

Sec. 6.5.10.3 License Transfer Application

The application for any transfer shall contain, at a minimum, all of the information required by these Regulations for an original license application, and any supplemental information requested by the Authority.

Sec. 6.5.10.4 Approval Criteria

The approval criteria in Part VI hereof for approval of a new license shall be applicable to an application for a transfer.

Sec. 6.5.10.5 Procedures; Action on Application

The Local Licensing Authority may hold a public hearing on the application. To the extent applicable, the provisions of Parts V and VII shall govern processing and action on the application for transfer.

Sec. 6.5.10.6 Period of Transferred License

Approval of the transfer of a license has the same effect as approval of a new license and the transferred license shall be valid for a period of one year from the date of approval.

Part 11. ENFORCEMENT

Sec. 6.5.11.1 Inspection

(1) The Local Licensing Authority shall have the rights of entry upon and into and inspection of the Premises and records of a Licensee to the fullest extent authorized by the Medical Marijuana Code, Retail Marijuana Code, and the state administrative regulations promulgated pursuant thereto, as applicable.

(2) The Local Licensing Authority shall at all times during the Licensee's business hours, upon request, be admitted to the Licensed Premises, including any limited access or other secured areas within them, to inspect for compliance with these Regulations. The Local Licensing Authority may request to inspect during non-business hours if the Licensee's normal business hours are inconsistent with typical business hours.

Sec. 6.5.11.2 Hearing; Suspension, Revocation of License

(1) A license issued pursuant to these Regulations may be suspended or revoked by the Local Licensing Authority after a hearing for any of the following reasons:

- (a) Fraud, misrepresentation or a false statement of material fact contained in the license application;
- (b) A violation of any Town, county, state or federal law or regulation with respect to the ownership or operation of the Marijuana Establishment or with respect to the Licensed Premises – other than a federal law or regulation concerning the possession, sale or distribution of marijuana that conflicts with Amendment 20 or Amendment 64;
- (c) A violation of any of the terms and conditions of the license;
- (d) A violation of any of the provisions of these Regulations;

- (e) The corresponding state license has been suspended or revoked by the State Licensing Authority; or
- (f) The Licensed Premises have been inactive without good cause for at least one year.

(2) A Licensee shall be given notice in writing of the allegations and of a hearing to consider suspending or revoking its license at least ten days before the hearing. The notice shall be sent by regular mail, postage prepaid. Notice will be deemed given upon mailing.

(3) Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The Licensee, in person or by counsel, shall then be permitted to give evidence in defense and in explanation.

(4) If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the Licensee, but standing alone establishes that the Licensee has engaged in a different violation of these Regulations, the Medical Marijuana Code or the Retail Marijuana Code, as applicable, or an order of the state or Local Licensing Authority, the Licensee shall be permitted to give evidence and statement in defense if then prepared to do so. If such evidence is not then available, but can be obtained by the Licensee, the Licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than fourteen days, and shall then continue under the same procedure as through no recess had occurred.

(5) The burden of proof shall be on the Town to show that grounds exist for suspension or revocation of the license.

(6) Any decision made by the Local Licensing Authority pursuant to this Section shall constitute the final decision of the Town, is effective immediately, and may be appealed pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(7) No fee previously paid by a Licensee in connection with the application or license shall be refunded if the license is suspended or revoked.

Sec. 6.5.11.3 These Enforcement Provisions are not Exclusive

In addition to all other remedies available to the Town under these Regulations or by other law, including the Medical Marijuana Code and the Retail Marijuana Code, the operation of a Medical Marijuana Establishment or a Retail Marijuana Establishment without a valid license issued pursuant to these Regulations may be enjoined by the Town in an action brought in a court of competent jurisdiction.

Sec. 6.5.11.4 Deference to State Licensing Authority

The Authority may defer to the state to enforce compliance with the requirements in the Medical Marijuana Code and the Retail Marijuana Code.

Part XII. FEES

Sec. 6.5.12.1 Fees Set by Resolution

The Town Council may revise application, license and operating fees by resolution.

Sec. 6.5.12.2 Medical Marijuana Establishments

The fees and charges shall be pursuant to the Town Fee Schedule.

Sec. 6.5.12.3 Retail Marijuana Establishments – Application Fees

Application fees for Retail Marijuana Establishment licenses are determined by the Retail Marijuana Code and collected by the State Licensing Authority.

Sec. 6.5.12.4 Retail Marijuana Establishments – Operating Fees

- (1) Operating fees shall be set with the objective of offsetting the cost to the Town of administering these Regulations.
- (2) Operating fees for any license (including any renewal or transfer of a license) shall be pursuant to the Town's Fee Schedule, in addition to the application fee received by the Local Licensing Authority for the license (but not reduced below zero). Operating fees must be paid in full before a license, including a renewal or transfer of a license, is issued. The full operating fee is due in advance for any Retail Marijuana Establishment license that was fully converted from a Medical Marijuana Establishment

license. No operating fee will be refunded even if the license is transferred, revoked, surrendered, suspended or otherwise is not valid for a full year, or if the operation ceases or never commences before expiration or revocation of the license.

(3) If it is deemed reasonably necessary to engage the services of an outside consultant to review an application for a retail marijuana license, including a transfer or renewal, the cost of the consultant shall be charged to the Applicant as an additional operating fee. Once the estimate is established, the Local Licensing Authority shall notify the Applicant in writing of the fee and its amount. Until the fee is paid, the application shall be incomplete and shall not be further processed. The amount of the fee may be increased at any time if it is determined by the Authority that the fee is not sufficient to cover all consulting costs associated with the application. If the Authority so determines, it shall notify the Applicant in writing of the amount of the increase. Not later than ten days following the notice, the Applicant shall pay the amount of the increase. If the increase is not timely paid, the application shall be deemed withdrawn by the Applicant.

Sec. 6.5.12.5 Retail Marijuana Establishments – Late Filing Penalty

If a complete application for a renewal license is not submitted until after the expiration of a license, and the Licensee qualifies for consideration of that late renewal pursuant to Section 9.6.5, the renewal application must be accompanied by a late renewal penalty, if any, as stated on the Town Fee Schedule.

Sec. 6.5.12.6 Payment of Fees

All fees are due and must be paid before a license of any type will be issued or effective. All funds must be remitted in the form of a business check or certified funds.

Part XIII. PATIENTS AND PRIMARY CAREGIVERS

Sec. 6.5.13 Patients and Primary Caregivers.

(1) Nothing in this Article shall be construed to prohibit or otherwise impair the use of medical marijuana by patients, in accordance with the Colorado Constitution and consistent with Section 25-1.5-106, C.R.S. and rules promulgated thereunder, as may be amended from time to time.

(2) Primary care-givers within the Town are authorized to engage only in those activities regarding medical marijuana that are set forth in Section 14 of Article XVIII of the Colorado Constitution, as defined and limited by Section 25-1.5-106, C.R.S. Primary care-givers who engage in the sale of medical marijuana and/or who charge for care-giver services, shall be deemed to be operating a business within the Town and shall obtain a business license pursuant to Section 6.1.3 of the Town Code.

(3) Primary care-givers and patients who engage in the cultivation of medical marijuana or the provision of care-giver services within the Town, whether for compensation or not, shall comply with all regulations of general applicability within the Town, including zoning regulations and uniform codes.



551 Hot Springs Boulevard
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Phone: 970.264.4151
Fax: 970.264.4634

**PAGOSA SPRINGS SANITATION GENERAL
IMPROVEMENT DISTRICT MEETING AGENDA
TUESDAY, MAY 5, 2015
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 P.M.**

- I. **CALL MEETING TO ORDER**
- II. **PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**
- III. **PUBLIC COMMENT** – *Please sign in to make public comment*
- IV. **CONSENT AGENDA**
 1. **Approval of April 23, 2015 Meeting Minutes**
- V. **REPORTS TO BOARD**
 1. **PAWSD/Pipeline Update Report**
- VI. **NEW BUSINESS**
 1. **Amendment to Agreement No. 419 between Town/PAWSD IGA regarding Sewer Pipeline with Possible Executive Session Pursuant to Section 24-6-402(4)(b) Conference with Attorney regarding IGA and Section 24-6-402(4)(e) Determining Positions Relative to Mattes that may be Subject to Negotiations, Developing Strategy for Negotiations and Instructing Negotiators**
- VII. **NEXT BOARD MEETING MAY 21, 2015 AT 5:00PM**
- VIII. **ADJOURNMENT**



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**PAGOSA SPRINGS SANITATION GENERAL
IMPROVEMENT DISTRICT MEETING MINUTES
THURSDAY, APRIL 23, 2015
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 P.M.**

- I. **CALL MEETING TO ORDER** – Board President Volger, Board Member Alley, Board Member Bunning, Board Member Egan, Board Member Lattin, Board Member Patel, Board Member Schanzenbaker
- II. **PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**
- III. **PUBLIC COMMENT** – None
- IV. **CONSENT AGENDA**
 1. **Approval of April 7, 2015 Meeting Minutes**
 2. **Approval of March Financial Statement and Accompanying Payments** - Board Member Bunning moved to approve the consent agenda, Board Member Alley seconded, unanimously approved.
- V. **REPORTS TO BOARD**
 1. **Sanitation District Report** – Staff spent the day with the CDPHE staff for the tri-annual inspection, a report to following in about 30 days. Staff attended the Sewer Revolving Fund (SRF) conference in Durango on Thursday April 9th. The process to apply for funding in the future has been greatly simplified and will allow districts to rely less on engineering consultants. The collection system video and cleaning analysis and flow meter review continues. Once completed, staff will construct a plan of action for our cleaning, televising and lining for this year’s work. There are two areas on Mesa Heights that will need excavation in the street for replacement. The average daily effluent flow rate for March was .307 million gallons per day with two violations reported for the month, one for ammonia which is typical and another for E. Coli which was probably due to spring runoff.
 2. **PAWSD/Pipeline Update Report** - Hammerlund Construction has stated they will start pipeline construction on the approximately 1.5 miles of force main left to install at the end of this month or early May. Staff will complete some of the LPR duties for the duration of the project. This includes review of the Davis Bacon wage agreement and coordination of the environmental analysis done by Ecosphere Environmental. A construction meeting was held April 9th. A mistake on pay application #11 was found and will be corrected, and Hammerlund has new project managers that will finish out the rest of the project.
- VI. **NEXT BOARD MEETING MAY 5, 2015 AT 5:00PM**
- VII. **ADJOURNMENT** – Upon motion duly made, the meeting adjourned at 5:12pm.



AGENDA DOCUMENTATION

REPORTS TO BOARD: V.1

PAGOSA SPRINGS SANITATION BOARD OF DIRECTORS
MAY 5, 2015

FROM: GENE TAUTGES, SANITATION SUPERVISOR

PROJECT: PAWSD/PIPELINE REPORT

ACTION: DISCUSSION

Administrative

I am up to date on certified payrolls for both Segments A & B of the project as of last week. Horizon Environmental toured the project last week and provided their report regarding the storm water management plan and generally gave a good report as the project comes out of winter shutdown into spring construction mode.

A project meeting is tentatively scheduled for this week with Ecosphere to start the construction season off on the right foot regarding protection of wetlands and the Pagosa Skyrocket.

The roofs are going up on both pump stations currently in addition to ancillary minor dirt work and electrical. A construction meeting was held on 4/23/15 where it was reported that Hammerlund crews will begin arriving this week and mobilizing to start laying the approximate 1.5 miles of pipeline. All Change Orders and Potential Change Orders have been resolved.

I received a year's worth of data from PAWSD on their wastewater system and over the next few months will analyze it and report back to the board on things we need to prepare for in our future capital improvement planning. A revised IGA between the PSSGID and PAWSD is being reviewed by our legal counsel and will be discussed in further detail at this meeting.



AGENDA DOCUMENTATION

NEW BUSINESS: VI.1

PAGOSA SPRINGS SANITATION BOARD OF DIRECTORS

MAY, 5, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: AMENDMENT TO AGREEMENT NO. 419 BETWEEN TOWN/PAWSD IGA

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

On January 3, 2012 the Pagosa Springs Sanitation General Improvement District (GID) entered into an Intergovernmental Agreement (IGA) with the Pagosa Area water and Sanitation District (PAWSD) regarding the joint effort between the GID and PAWSD to construct, operate and maintain a sewer pipeline. As noted the IGA was executed in early 2012, but the pipeline contract award did not happen until late 2013 and actual construction began in 2015. Construction did cease, except for pump station work, for the season in late 2014. Presently the contractor, Hammerlund Construction, is preparing to mobilize to complete this project.

The IGA speaks to the sewer pipeline as two segments: Segment A and Segment B. Payment of Segment A was intended to be borne entirely the GID and the funding is coming from a CRWPA loan, a DoLA grant, and GID fund balance. The contract award for Segment A is \$3.35 million. The contract for Segment B amounts to \$3.5 million and both segments were awarded to Hammerlund Construction in late 2013.

In regards to Segment B, the IGA of 2012 states in several sections the intent of the parties was for PAWSD to pay the construction costs up front and the Town would then pay PAWSD back the costs for Segment B over 20 years, plus a factor for the lost opportunity on invested funds. In very recent discussions between GID and PAWSD staff, the PAWSD staff asserts the maximum amount PAWSD would contribute to Segment B is \$2.835 million, thereby leaving a shortfall of approximately \$665,000 between the contract amount of \$3.5 million and the PAWSD contribution of \$2.835 million. This assertion is not reflected anywhere in the IGA. However, upon further research the cap of \$2.835 million is reflected in the minutes of the PAWSD Board meeting of December 10, 2013. Last, while it is not directly reflected in the GID Board meeting minutes of November 21, 2013, the audiotape of that meeting reflects the verbal statement from GID staff that the PAWSD contribution for Segment B is intended to be \$2.835 million. The PAWSD Board of Directors has reinforced its position that its contribution to Segment B is capped at \$2.835 million.

The GID Board is faced with 2 options: Contesting the \$2.835 million cap asserted by PAWSD or accepting the responsibility for paying the cost of the difference between the \$2.835 million and the contract amount of \$3.5 million.

The Town Attorney will provide a discussion of the legal options open to the GID Board in Executive Session and that may contribute to the decision making process for the GID Board.

ATTACHMENTS:

- IGA #419
- PAWSD Minutes of December 10, 2013
- GID minutes of November 21, 2013
- GID Fiscal Analysis Spreadsheet

FISCAL IMPACT

The complete fiscal impact involves several factors since it is the Sanitation Fund that is funding both Segments and we have a loan and two grants that are also contributing to the fiscal picture.

Included as an attachment is a fiscal breakdown showing resources and costs by Segment.

RECOMMENDATION

After adjourning from Executive Session, possible motions by the GID Board include:

1. **“Authorize the Mayor to sign an Amendment to Intergovernmental Agreement 419 between the Pagosa Springs Sanitation General Improvement District and the Pagosa Area Water and Sanitation District (PAWSD) regarding the maximum contribution of \$2,835,745 by PAWSD towards Segment B sewer line costs.”**
2. **“DECLINE authorizing the Mayor to sign an Amendment to Intergovernmental Agreement 419 between the Pagosa Springs Sanitation General Improvement District and the Pagosa Area Water and Sanitation District and direct GID and legal staff to pursue all possible remedies.”**

**INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN
THE PAGOSA SPRINGS SANITATION GENERAL IMPROVEMENT DISTRICT
AND
THE PAGOSA AREA WATER AND SANITATION DISTRICT**

THIS INTERGOVERNMENTAL AGREEMENT ("IGA") is entered into this 3rd day of January, 2012, by and between the PAGOSA SPRINGS SANITATION GENERAL IMPROVEMENT DISTRICT (PSSGID), and the PAGOSA AREA WATER AND SANITATION DISTRICT (PAWSD), a quasi-municipal corporation and political subdivision of the State of Colorado (PSSGID and PAWSD being referred to singularly as "Party" or "District" and jointly as "Parties" or "Districts"), effective as of January 3, 2012 ("Effective Date").

WHEREAS, an ad-hoc committee of representatives from the Districts has convened on numerous occasions to discuss and develop the concepts, options, and terms of an agreement whereby PAWSD would provide wastewater treatment services to PSSGID; and

WHEREAS, the ad-hoc committee undertook a study of a number of options for providing increased sewage treatment to PSSGID; and

WHEREAS, the ad-hoc committee, together with consent and approval of their respective Boards of Directors, has chosen a modified version of Option 2, hereinafter referred to as Option 2A, as the preferred course of action, consisting of conveyance of raw sewage from the approximate location of PSSGID's existing wastewater treatment plant to PAWSD's Vista wastewater treatment plant ("Vista WWTP"), treatment of such raw sewage by PAWSD at the Vista WWTP, and discharge by PAWSD of the treated effluent in compliance with Federal and State laws and regulations; and

WHEREAS, it is envisioned that Option 2A will consist of feasibility analysis and preliminary design ("Feasibility and Preliminary Design Phase"), design development and final design ("Final Design Phase"), and construction ("Construction Phase"), of the two (2) segments of pipeline and lift stations ("Segment A" and "Segment B"), and thereafter the ongoing operation and maintenance of Segments A and B to provide for the conveyance and treatment of PSSGID raw sewage, at current and future flow levels, and subsequent discharge of effluent at the Vista WWTP ("Operation and Maintenance Phase") (all such phases for both Segments A and B together constituting the "Project"). The PSSGID will be responsible for the costs of constructing Segment A, consisting of the Segment A lift station to be built in the general vicinity of the existing PSSGID wastewater treatment plant, and the Segment A pipeline extending from the Segment A lift station to the Segment B lift station. The PAWSD will initially be responsible for the costs of constructing Segment B, to be repaid by PSSGID. Segment B will consist of a the Segment B lift station to be built at the terminus of the Segment A

pipeline, and a pipeline extending from the Segment B lift station as needed to connect to the Vista WWTP.

NOW, THEREFORE, in consideration of the promises of the Parties hereto and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is agreed as follows:

Project Management and Oversight

1. **Standing Committee.** A six (6) member standing committee (Committee) has been formed and shall remain in place throughout the term of this IGA. The Committee shall consist of one (1) elected official from the PSSGID, one (1) elected official from the PAWSD, the Pagosa Springs Town Manager, the PAWSD Manager, the PSSGID Sanitation Supervisor, and the PAWSD Project Manager. Additionally, a disinterested seventh (7th) committee member shall be selected at-large by a simple majority vote of the Committee to serve a four (4)-year term without term limitations. Until such time as said selection process can occur, the chairperson of the Committee shall serve as interim-at-large member. The purpose of the Committee is to make decisions regarding the Project including, but not limited to; approval for publication of requests for qualifications ("RFQs") and requests for proposals ("RFPs") for feasibility and design engineering services ("Design Engineer") and for construction contractor services ("Construction Contractor"), recommendation of a Design Engineer and Construction Contractor for approval by the Parties, formulation of recommendations to the Parties regarding future upgrade responsibility, approval of pay applications following recommendations of the lead project representative ("LPR"), and items of governance under this IGA. The decision of the majority of the Committee members will prevail. All decisions of the Committee regarding a) contractual obligations of the Parties, and b) items affecting budgets in amounts in excess of ten-thousand dollars (\$10,000.00), shall be deemed recommendations to the Parties and subject to approval by the respective Boards of Directors prior to implementation.

2. **Interim Duties.** Until such time as the Design Engineer is selected, the Districts will cooperate to implement this IGA and at no charge to the other for the drafting of documents, meeting attendance, legal counsel services, staff assistance, and other related costs. Thereafter such costs shall be allocated to the Parties as provided herein.

3. **Lead Project Representative Services.** The PAWSD will furnish the LPR to provide overall Project coordination and management throughout the term of this IGA. The LPR shall remain an employee of the PAWSD. The PSSGID reserves the right to furnish a representative to assist the LPR, as needed and deemed appropriate, at no charge. The LPR shall perform duties assigned by the Committee, and including the following:

- (a) Obtain permits, approvals and licenses, and reporting and documentation required by Federal, State, and local authorities for design, construction, and ongoing operation of the Project.
- (b) Formulate a Project timeline and furnish same to the PSSGID, the PAWSD, the Colorado Department of Public Health and Environment ("CDPHE"), and the Colorado Water Resources and Power Development Authority ("CWRPDA"). The LPR shall periodically update the timeline as deemed appropriate and/or as required by the Districts or any Federal, State, or local authorities.
- (c) Formulate and advertise RFQs and RFPs, for the Design Engineer and Construction Contractor services, and assist the Committee in evaluating responses and making recommendations to the Boards of Directors of the Districts for their approval.
- (d) Act as the Parties' agent for the Feasibility and Preliminary Design and Final Design Phases of the Project. The LPR's dealings in matters pertaining to the Design Engineer's work in progress shall be general in nature. The LPR shall conduct all Project meetings, review progress schedules and pay applications, make recommendations to the Committee regarding approval for payment, requests for information, and all other documentation required to document the design and bid processes. This documentation shall be made available to members of the respective Districts, Boards of Directors, Committee members, and jurisdictional agencies. The LPR shall be responsible for contract administration and oversight and act as the owners' representative under an agreement for engineering and feasibility design services, but shall not direct or supervise the Design Engineer's work, or have responsibility for Design Engineer's responsibilities.
- (e) Act as the Districts' agent for the Construction Phase of the Project. The LPR's dealings in matters pertaining to the Construction Contractor's work in progress shall be general in nature. The LPR shall conduct all Project meetings, review progress schedules, shop drawings and samples, schedules of values, and job progression, perform on-site inspection, review pay applications and requests for change orders and make recommendation to the Committee regarding their approval, respond to requests for information, and perform or coordinate all other documentation necessary or appropriate for the Construction Phase. Daily activity logs shall be kept documenting Project progression. This documentation shall be made available to members of the respective Districts, Boards of Directors, Committee members, and jurisdictional agencies. The LPR shall not authorize changes in the design or specifications without expressed written approval of the Design Engineer or other engineer responsible for that specific aspect of the Project, unless that authority has previously been delegated in writing by the Project Engineer. No changes in design or specifications or change orders shall be approved by the LPR which add more than two percent (2%) to the costs of the construction or exceed the contingency line item in the construction contract without written approval of the

Committee. The LPR shall be responsible for contract administration and oversight and act as the owners' representative under the construction contract, but shall not direct or supervise the Construction Contractor's work, or have responsibility for Contractor's safety policies or responsibilities.

Feasibility and Preliminary Design Phase

4. **Design Engineer Services Agreement.** Following recommendations of the Committee and selection by the District's Boards of Directors of a Design Engineer, the Parties jointly will enter into a services agreement with the Design Engineer to provide services through the Design and Construction Phases. Such agreement shall be consistent with this IGA and reflect the potential for termination of the Project consistent with the Parties' termination rights under this IGA.

5. **Feasibility Study and Preliminary Engineering Report.** No later than March 14, 2012, the Design Engineer shall develop preliminary design engineering ("Preliminary Engineering Report" or "PER"). The PER shall be of sufficient schematic quality and detail as to allow the preparation of a preliminary costs and Project feasibility analysis ("Feasibility Study"). The PER and Feasibility Study will be presented to the Committee for its consideration and recommendations to the Districts' Boards of Directors. Upon approval of the PER and Feasibility Study by the Districts' Boards of Directors the Committee shall direct the Design Engineer to proceed with the Final Design Phase.

6. **Pipeline Alignment.** Segments A and B shall be designed and constructed along an alignment proposed by the Design Engineer, utilizing existing property of the Districts, easements and co-location with other utilities where practical. The Design Engineer shall consult with the Committee in determining the alignment of the pipeline and location of the lift stations.

7. **Pipeline and Lift Station Capacity.** The Design Engineer shall design Segments A and B at the largest capacity necessary to accommodate all future expansion in service as is reasonably foreseeable considering all areas potentially served by the collection systems currently existing and as may be expanded or constructed in the future that will connect to the Project. The Design Engineer shall consult with the Committee in determining such future service needs and design capacity for the Project.

8. **Flow Meters.** To facilitate payment of sewage treatment costs by PSSGID to PAWSD, flow meters shall be incorporated into the design of the Project to determine PSSGID effluent flow to the Vista WWTP.

Final Design Phase

9. **Design Development.** Upon approval of the Feasibility Study and Preliminary Engineering Report by the Districts' Boards of Directors, the LPR shall direct the Design Engineer to prepare design development documents. Such design development documents shall be of sufficient design to allow the preparation of RFQ and RFP documents for soliciting and selecting a Construction Contractor. As approved by the Committee upon consideration of the recommendation of the LPR and requirements of other Federal or State agencies involved in the permitting and financing of the Project, the design documents and Construction Contractor documents may contemplate preparation of all or part of the final design documents during the Construction Phase and with consultation of the selected Construction Contractor. The design development documents and Construction Contractor documents, including the RFQ and RFP shall be reviewed by the LPR and approved by the Committee.

10. **Final Design.** Upon approval of the design development documents by the Committee, the Design Engineer shall be directed to proceed with final design document preparation. The final design documents shall be reviewed by the LPR and approved by the Committee.

Construction Phase

11. **Construction Contractor Solicitation and Selection.** Upon completion and acceptance by the Committee of the design development documents, the LPR with the assistance of the Design Engineer shall prepare the RFQ, RFP and construction contract documents for Construction Contractor services. The Project will be bid as one Project. Construction contract documents shall designate the Districts jointly as the owner and the LPR as the owners' representative. Upon approval of the RFQ and RFP by the Committee, the LPR shall advertise for and solicit responses to the RFQ and RFP and make recommendations to the Committee for selection of a Construction Contractor. The Committee shall review the proposals and recommendation of the LPR and make a final recommendation to the Parties and subject to approval by the respective Boards of Directors prior to implementation regarding selection of a Construction Contractor. Upon selection of the Construction Contractor by the Parties, the Districts shall jointly execute the construction contract.

12. **Final Construction Design Documents.** If final construction design documents have not previously been prepared by the Design Engineer, the Design Engineer shall prepare such documents as quickly as possible following the selection of the Construction Contractor by the Parties and throughout the Construction Phase so as to not delay construction.

13. **Records.** Each District shall maintain its own records in accordance with its respective accounting practices and policies. Additionally, one set of Project records

will be kept for the Project as a whole by the LPR. The Project records will encompass items such as, but not limited to; pre-bid meeting minutes, bid documents, requests for information, addenda, bids received, notices of award, contract documents, notices to proceed, pre-construction meeting minutes, progress meeting minutes, bonds, insurance, permits, photographic documentation such as pre-construction, progress, and post-construction conditions, schedules of values, timelines, submittals, shop drawings, samples, requests for change orders, change orders, field orders, work change directives, applications for payment, testing and inspection records, Davis Bacon documentation and Buy-American documentation if applicable, local labor usage documentation, local purchasing documentation, substantial completion records, partial utilization records, final completion records, final payment notices, and other documentation required by agencies having jurisdiction over the Project. The LPR will be responsible for maintaining the Project records at a place accessible to the Districts and other jurisdictional agencies for auditing and verification purposes.

14. Property Acquisition.

(a) Segment A. The PSSGID will be primarily responsible for property or easement acquisition on Segment A, if needed. PSSGID shall be solely responsible for the costs of easement or property acquisition for Segment A.

(b) Segment B. The PAWSD will be responsible for property or easement acquisition on Segment B, if needed. PAWSD shall be initially responsible for the costs of easement or property acquisition for Segment B as a cost of construction, subject to repayment by PSSGID.

(c) Acquisition Timing. Property acquisition may begin at any time, but shall begin no later than Construction Contractor selection so as to not delay the construction timelines and deadlines provided for in the construction documents.

(d) Condemnation. If necessary for easement or property acquisition to facilitate construction of the Project, and considering the essential public need for the Project, the Parties agree to use their respective eminent domain powers.

(e) Trench Sharing. The Districts will cooperatively pursue trench cost sharing with other entities such as, but not limited to; natural gas, electrical, communications, potable water, trails, etc., without adding undo time to the Project, as determined by the Committee.

Operation and Maintenance Phase

15. Collection System Ownership. Each Party shall retain ownership of their existing wastewater collection systems within their service area, and shall continue to operate and maintain said collection systems at their sole expense.

16. Vista WWTP Ownership, Operation and Maintenance. PAWSD shall retain ownership of the Vista WWTP, and shall operate and maintain said WWTP, including the necessary permitting requirements, at its expense as necessary to provide for treatment of all PSSGID raw sewage capable of being delivered through the Segment A pipeline and lift station.

(a) Vista WWTP Capacity Expansion. In the event the PSSGID anticipates requiring treatment of sewage flows greater than the flows capable of being delivered through the Segment A pipeline and lift station, and in excess of the legal or treatment capacity of the Vista WWTP, PSSGID shall provide written notice to PAWSD. Upon receipt of such notice PAWSD shall take all actions necessary to plan for, authorize, permit, and construct such additional treatment capacity as required to treat such additional PSSGID sewage. Unless otherwise agreed to by the Parties, such additional capacity shall be ready to operate and treat PSSGID sewage within three (3) years of PSSGID providing notice of requiring additional treatment capacity. The design and construction of such additional capacity shall be accomplished following the procedures provided in this IGA for Segments A and B. The costs of such expansion shall be allocated between the Parties in proportion to the amounts of expanded capacity reserved to each Party.

(b) Pretreatment Requirements. The PSSGID shall enforce pretreatment regulations at least as stringent as the PAWSD Rules and Regulations, as such may change over time, on customers within its wastewater collection system.

17. Project Ownership.

(a) Segment A Ownership. Upon construction, the PSSGID will own the Segment A pipeline, lift station, and underlying easements or property, and shall insure same as determined appropriate by its Board of Directors.

(b) Segment B Ownership. Upon construction, the PAWSD will own the Segment B pipeline, lift station, and underlying easements or property, and shall insure same as determined appropriate by its Board of Directors.

18. Operation and Maintenance. The PAWSD will operate and maintain the Segment A and Segment B infrastructure as specified in the Owners and Operators manuals and in accordance with CDPHE regulations and requirements as necessary to convey PSSGID's raw sewage to the Vista WWTP.

(a) Automated Monitoring. Incorporated in the design of the Project will be Supervisory Control and Data Acquisition ("SCADA") elements enabling monitoring of the components of the Project by the PAWSD.

(b) Asset Management Records. PAWSD shall maintain and make available to the Districts all asset management records in a format which will allow tracking through Cityworks @ asset management software.

19. PSSGID Lagoon Decommissioning. Upon completion of the construction and the commencement of operation of the Project, PSSGID shall, as it deems appropriate, but in all cases consistent with requirements of the CDPHE, decommission the existing PSSGID lagoon system at its sole cost and expense. If desired by the PSSGID, the work associated with the decommissioning of the PSSGID lagoon system shall be included within the scope of work contained in the Design Engineer's contract or Construction Contractor's contract as an optional add item, which, along with costs of the LPR necessary for such item, shall be paid for solely by PSSGID.

Costs and Financing

20. LPR Costs. The total wages or salary for LPR services to the Project, with the exception of benefit costs which will be paid by the PAWSD, will be shared equally by the Districts based on the then current total hourly cost to the PAWSD, and based on accounting and invoices furnished by the LPR. The LPR shall remain an employee of the PAWSD. Benefit costs, which shall be paid solely by PAWSD, shall include pension or retirement contributions not included in FICA withholding; sick, vacation and other leave costs; contributions to health and life insurance premiums; 401(k) and health savings account ("HSA") contributions; and similar benefits not included in base wages or salary. The LPR shall maintain and provide to the Committee for review records reflecting the general nature of work on the Project, as well as an allocation of hours worked on non-Project matters during the same reporting period.

21. Design Engineer Costs. Design Engineer costs associated with the Project except costs for the PER and Feasibility Study, shall be shared and paid equally by the Parties. Funds currently estimated to be necessary for completion of the PER and Feasibility Study have been included in the 2012 budgets and appropriations for PSSGID, and the entire cost of the PER and Feasibility Study shall be paid by PSSGID. Neither Party shall be responsible for payment of any Design Engineering services, however, until the Boards of Directors of the Districts approve the selection of the Design Engineer and entry of the contract for Design Engineer services.

~~22~~ 22. Construction Costs. Upon a schedule to be set forth in the Construction Contractor's contract, Segment A construction costs shall be paid by the PSSGID, and, subject to repayment by PSSGID as set forth below, Segment B construction costs shall be paid by the PAWSD. The Construction Contractor contract shall require to the greatest extent possible allocation to Segment A or Segment B any costs specifically attributed to such segment. Costs that are common to both segments in generally equivalent amounts shall be shared equally. Costs that are logically allocated proportionally between Segment A and B shall be shared in such proportional amounts.



23. Segment B Repayment. Beginning the calendar year following completion of construction of the Project, PSSGID shall repay PAWSD the cost of the Segment B construction.

(a) Principal Amount. The initial principal amount of PSSGID'S repayment obligation will be calculated by the LPR at the time the Project is deemed completed by the LPR. The principal amount shall be confirmed by the Committee.

(b) LOIF. In addition to principal repayment, the PSSGID will repay the PAWSD's lost opportunity on invested funds ("LOIF") on the outstanding principal amount. The LOIF shall be calculated based on the highest interest rate actually earned by PAWSD on its investment of surplus funds for the period of October 1st through September 30th preceding the calendar year (January 1st through December 31st) for which the LOIF shall be applied to payments. The LOIF will be initially established as of the date that the first principal payment is due, and thereafter shall be reviewed annually and adjusted, upward or downward, if necessary, no later than October 1st. The LOIF shall not exceed seven percent (7%), unless otherwise approved by the Boards of Directors. The annual LOIF rate shall be calculated by PAWSD and approved by the Committee.

(c) Payments. Payments of principal and LOIF shall be amortized over a period of twenty (20) years with roughly equal payments, taking into consideration the annual adjustment of the LOIF rate. All payment shall be applied first to accrued LOIF and second to outstanding principal. Payments shall be made annually no later than the 30th of each November.

(d) Prepayment Penalty. No penalties will be assessed for pre-payment in whole or in part by PSSGID of Segment B principal.

24. Segment A and B Operations and Maintenance Costs.

(a) Segments A and B. Costs of operation and routine maintenance of Segments A and B shall be paid for by PAWSD without contribution by PSSGID. Extraordinary maintenance costs, defined as costs exceeding \$10,000 per occurrence, that pertain to Segment A, to repair or replace equipment will be paid upon recommendation by the Committee and determination by the Districts' Boards of Directors.

(b) Lift Station Energy Costs. The costs for the electrical power to operate the Segment A lift station will be paid by the PSSGID, and the electrical power to operate the Segment B lift station will be paid by the PAWSD.

(c) Renewable Energy. The Districts will share equally in all renewable benefits generated by any part of the Project, including items such as, but not limited to,

cost savings generated by solar, nano-hydro, or other alternative energy sources, or in the form of grants or credits obtained for the use of such alternative energy sources.

25. **Sewage Treatment Costs.** On the PAWSD regular monthly customer billing cycle, the PSSGID shall pay PAWSD for treating sewage delivered by PSSGID based on a rate per thousand gallons delivered by PSSGID to the Vista WWTP ("Municipal Treatment Rate"). The Municipal Treatment Rate shall reflect the incremental costs incurred by PAWSD added by the treatment of PSSGID sewage at the Vista WWTP above the costs of operating the Vista WWTP without treating PSSGID sewage.

(a) The Municipal Treatment Rate shall not include any PAWSD overhead or administrative costs, rate or surcharge, but shall include incremental costs associated with wastewater treatment plant expenditures including maintenance, energy, chemicals, supplies, insurance, water, sludge removal and processing, vehicle maintenance, operator salaries and associated benefits, training and payroll expenses, lab operating costs and supplies, lab vehicle maintenance, lab personnel salaries and associated benefits, training and payroll expenses.

(b) The Municipal Treatment Rate shall be calculated each year based on the PAWSD costs for the period of October 1st through September 30th preceding the calendar year (January 1st through December 31st) for which the Municipal Treatment Rate shall be applied based on the example in Exhibit A attached and incorporated herein. The Municipal Treatment Rate as of the date of this IGA, is one dollar and ten cents (\$1.10) per thousand gallons, and shall be reviewed annually and adjusted, upward or downward, if necessary, no later than October 1st of each year so that the Parties may budget appropriately. The Municipal Treatment Rate shall be calculated by PAWSD and approved by the Committee.

(c) Except as otherwise expressly provided in this IGA, the Municipal Treatment Rate shall be the exclusive charge imposed by PAWSD for conveyance and treatment of PSSGID sewage under this IGA, and no connection charges, tap fees, or other charges shall be imposed upon existing or new users of the PSSGID collection system or the PSSGID for such services.

26. **Professional Fees.** Except as provided in Section 2 of this IGA, all professional fees incurred by the Committee and not otherwise specifically allocated by this IGA, including but not limited to legal and engineering expenses, will be shared equally by the Districts. Invoices for the shared fees shall be provided to the Districts by the LPR.

27. **Fees.** No costs, charges, or fees other than those specifically delineated in this document shall be passed on from the PSSGID to the PAWSD, or the PAWSD to the

PSSGID without written recommendation of the Committee and expressed written approval of the receiving entity's Board of Directors.

Term and Termination

28. **Term of this IGA.** If not timely terminated as provided herein, the initial term of this IGA shall begin on January 3, 2012 and extend until December 31, 2012. Thereafter, this IGA shall be automatically and perpetually renewed for successive one (1)-year terms.

29. **Termination.** This IGA may be terminated as follows:

(a) **Failure to Approve Feasibility Study and PER, or Construction Contractor.** Should the Parties not approve the Feasibility Study and PER Facility prior to March 14, 2012 or sooner, or the Construction Contractor contract prior to August 12, 2012 or sooner, either Party may terminate this Agreement by providing written notice to the other Party within thirty (30) days following the applicable deadline. If such notice is provided, termination shall be effective ten (10) days following the receipt of such notice by the other District;

(b) **Mutual Agreement.** By mutual agreement, as evidenced in writing signed by the Parties;

(c) **Failure to Appropriation.** Unless otherwise agreed to by the Parties, failure by either Party to appropriate moneys for the ensuing fiscal year to pay all amounts estimated to become due under this IGA for the ensuing fiscal year. Notwithstanding any provisions of this IGA to the contrary, the terms and obligations of this IGA are subject to annual appropriations by the Parties so as to not create a multiple fiscal year obligation pursuant to Article X, Section 20 of the Colorado Constitution. In the event of non-appropriation, the non-appropriating Party shall give the other Party written notice of the non-appropriation not later than December 15th of such year and pay any amounts that are due and have not been paid before the end of the then-current fiscal year.

30. **Outstanding Charges Upon Termination.** Notwithstanding any other provisions contained herein, any payment obligations of one Party to the other Party that has been appropriated by the obligated party shall continue despite termination until paid.

Miscellaneous

31. **Severability.** Any provisions or part of this IGA held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Districts, who agree that this IGA shall be reformed to replace such stricken provisions or part thereof with a valid and

enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

32. **Binding Affect**. Districts each bind themselves, successors, assigns, and legal representatives to the other party hereto, their partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in this IGA.

33. **Entire Agreement**. This IGA constitutes the entire agreement of the Parties relating to the subject matter hereof and, except as provided herein, may not be modified or amended except by mutual agreement of the Districts upon recommendation of the Committee.

34. **Assignment**. No assignment by a Party hereto of any rights or obligations under this IGA will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent; except to the extent that the effect of this restriction may be limited by law, and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or obligation under this IGA.

35. **Governmental Immunity Act**. No term or condition of this IGA shall be construed or interpreted as a waiver by the PSSGID or the PAWSD, express or implied, of any of the notice requirements, immunities, limitations to liability, rights, benefits, protections, or other provisions under Colorado Governmental Immunity Act §24-10-101 *et seq.*, C.R.S., or under any other law.

36. **Specific Performance**. In addition to any of the remedies at law or in equity either Party may have upon the breach of this IGA by the other Party, the aggrieved Party shall have the right to request a court of proper jurisdiction to enter a mandatory injunction against the other Party requiring specific performance of the terms contained in this IGA.

37. **Governing Law and Enforceability**. This IGA shall be construed in accordance with the laws of the State of Colorado, and venue shall be in the District Court of the County of Archuleta, State of Colorado.

38. **Headings**. Paragraph headings used in this IGA are for convenience of reference and shall in no way control or affect the meaning or interpretation of any provision of this IGA.

39. **Notices**. Other than billing invoices, which may be sent first class mail, written notices required under this IGA and all other correspondence between the Parties

shall be directed to the following and shall be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

If to the PSSGID: Town of Pagosa Springs Sanitation General Improvement District
Attention: Town Manager
P.O. Box 1859
Pagosa Springs, CO 81147

If to the PAWSD: Pagosa Area Water and Sanitation District
Attention: District Manager
P.O. Drawer 4610
Pagosa Springs, Colorado 81157

40. Construction of IGA. This IGA shall be construed according to its fair meaning as if prepared by both parties and shall be deemed to be and contain the entire understanding of the parties.

IN WITNESS WHEREOF the Parties hereto have caused this IGA to be executed as of the Effective Date.

Pagosa Springs Sanitation General Improvement District

Pagosa Area Water and Sanitation District

By: Rose Magor

By: Steve B. [unclear]

Title: MAYOR

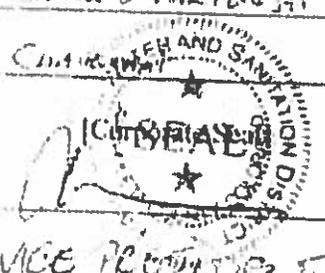
Title: Chairman

Attest: [Signature]

Attest: [Signature]

Title: Town Clerk

Title: VICE PRESIDENT



	2009	2010	2011 Amended Budget or estimate	2012 Budget
Wastewater Treatment				
Health Insurance	16,547	11,241	8,500	8,568
Retirement	2,171	446	1,980	2,014
Insurance - General			606	615
Maintenance Vista WWTP			24,534	25,000
Fuel, Power & Water Vista WWTP	121,624	110,476	153,000	171,000
Sludge Removal/Processing	43,974	52,511	48,000	38,500
Operator Salaries	43,158	31,729	39,728	36,903
Payroll Exp - FICA/Unemployment	3,288	2,431	3,348	3,177
Building Maintenance - Vista			500	0
Fuel & Power Highlands Lagoon	15,339	15,468	16,500	0
Vehicle Maintenance			200	200
Training	842	1,293	1,500	1,500
Total Wastewater Treatment	248,943	225,566	296,396	284,475
Lab Expenditures				
Health Insurance	8,945	10,248	9,018	7,642
Insurance - General			697	701
Retirement	1,996	2,188	2,279	2,297
Lab Supplies	9,781	11,454	18,000	16,000
Lab Salaries	39,147	43,644	46,086	40,394
Payroll Exp - FICA/Unemployment	3,149	3,456	4,081	3,314
Vehicle Maintenance			100	100
Total Lab Expenditures	63,016	70,987	77,241	70,448
Total Expenditures	309,959	296,552	373,636	354,923
Total Costs applicable to Municipal Rate			373,636	354,923
PAWSD Total Gallons Treated	249,795,000			
Town of Pagosa Springs Gallons	91,250,000			
	341,045,000			
Cost per 1000 gallons			1,096	1,041
Reimbursement of 2.9 Mil at .75% 20 years			156,730.03	190,577.00
DS divided by TOPS gallons			91,250,000	91,250,000
Reimbursement and lost opportunity cost per 1000 gallons			1,718	2,089
Treatment and reimbursement cost per 1000 gallons			2,813	3,129
PAWSD Customers only				
Total Treatment			296,396	284,475
Total Lab			77,241	70,448
Total 2006 Bond Issue (WW portion)			277,075	277,675
Total 2002 GO			399,105	399,705
Total WW Treatment costs including DS			1,049,817	1,032,303
divided by PAWSD Treated gallons			4.203	4.133

GREG

**Town of Pagosa Springs
and
PAWSD
Standing Committee Meeting**

**March 19, 2015
12:30 p.m.
@ PAWSD Job Trailer**

- I. Introductions
- II. Lead Project Representative Discussion
 - Bartlett & West acting as interim ✓
 - Status of hiring replacement *closed on the 13th; Interviews April 6th.*
- III. Discussion of PAWSD's Desired Cap for Segment B
- IV. Review of Potential Change Order #3
- V. Update on Potential Paving Collaboration with County Re: Trujillo Road

Ⓟ Have April provide an update on billing.

RECORD OF PROCEEDINGS
PAGOSA AREA WATER AND SANITATION DISTRICT
— DECEMBER 10, 2013 REGULAR MEETING

Attendance

The following Directors were present: Burt Adams, Allan Bunch, Michael Church (telephonically), Roy Vega, and Glenn Walsh.

In attendance from staff: Ed Winton, Shellie Peterson, Gregg Mayo, and Renee Lewis. Also present: Dana Hayward, Art Dillione, Mark Weiler, Jeff Robbins, Jim Huffman, Paul Hansen, David Mitchem, Darrel Cotton, and John Ramberg.

Call to Order

The Regular Meeting for the Pagosa Area Water and Sanitation District (PAWSD) was called to order by Chairman Allan Bunch at 2:05 p.m.

Approval of Consent Agenda

The Board considered the Consent Agenda. The Directors reviewed the minutes for the October 22, 2013 Special Meeting and the November 12, 2013 Regular Meeting, and the Water Loss Update. Ed Winton, District Manager, presented the Water Loss Update, stating the water loss amount for the month of November is down from the month of October amount of 18.5 million to 3.3 million. He attributed the significant decrease to the many breaks discovered in the past month, but qualified this statement with hesitation given the dramatic change in values. Mr. Winton further indicated that such an anomaly should be taken cautiously until subsequent month's reports indicate if a dramatic reduction in demand on the distribution system is verified. A motion was made by Director Vega and seconded by Director Adams to approve the Consent Agenda as presented. The motion passed unanimously 4 – 0 as Director Walsh was not yet at the meeting.

Public Comment

Chairman Bunch opened the meeting to public comments. John Ramberg offered comments regarding water loss (copy attached).

Consideration of Sewer Line from Town of Pagosa Springs to PAWSD Main Campus

The Board considered Sewer Line from Town of Pagosa Springs to PAWSD Main Campus (copy attached). Mark Weiler, Pipeline Project Steering Committee Chairman, provided to the Board the November 21, 2013 recommendation for the Pagosa Springs Sanitation General Improvement District (PSSGID) to approve the funding for the Sewer Line from Town of Pagosa Springs to PAWSD Main Campus. David Mitchem, Town of Pagosa Springs Manager, confirmed the PSSGID Board did in fact approve the funding, \$6,853,000.00 with \$1,200,000.00 for any shortfalls, for the Sewer Line from Town of Pagosa Springs to PAWSD Main Campus on November 21, 2013. A motion was made by Director Adams and seconded by Chairman Bunch to approve the funding, \$2,845,000.00, for the PAWSD portion of the Sewer Line from Town of Pagosa Springs to PAWSD Main Campus. The motion passed unanimously.





551 Hot Springs Boulevard
Post Office Box 1859
Pagosa Springs, CO 81147
Phone: 1-970.264.4151
Fax: 1-970.264.4634

**PAGOSA SPRINGS SANITATION
GENERAL IMPROVEMENT DISTRICT
MEETING MINUTES
THURSDAY, NOVEMBER 21, 2013
Town Hall Council Chambers
12:00 P.M.**

I. CALL MEETING TO ORDER – ► Board President Aragon, Board Member Alley, Board Member Bunning, Board Member Cotton, Board Member Lattin, Board Member Schanzenbaker, Board Member Volger

II. APPROVAL of MEETING MINUTES FROM NOVEMBER 5, 2013 – The minutes were approved as read.

III. OLD BUSINESS

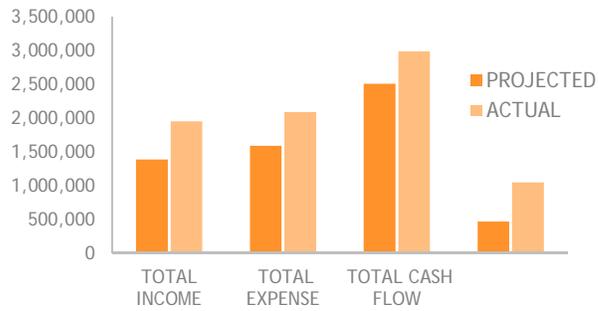
1. PAWSD/Town Pipeline – ► The second round of bids for the pipeline Phase 1 came in at \$3,353,000 and Phase 2 \$3,500,000. This amount is over the engineers estimated costs of \$6,500,000 but well under the last bids received of almost \$9 million. The pipeline committee recommends the Sanitation Board approve awarding the construction project to Hammerlund Construction. Board Member Schanzenbaker said past minutes show this pipeline was represented at \$4.7 and \$5.5 million, and with the increased amount at \$6.9 million cost of the project should cause the Town to look back at the treatment plant options. Board Member Bunning said this pipeline is a good idea rather than having a sewer treatment plant along the river. Board Member Alley would like to have the easements in place prior to approving contract award. Board Member Cotton moved to award the pipeline construction contract to Hammerlund Construction in the amount of \$6,853,000 and allocate up to \$1.2 million of sanitation reserves to any shortfalls. Board Member Cotton seconded, motion carried with one nay (Board Member Schanzenbaker). The project should begin in April 2014 and be completed including the decommissioning of the Town sewer lagoons by November 1, 2015. Shortfall costs include attorney costs, electrical costs, surveying, and environmental as an example.

IV. DEPARTMENT HEAD REPORT

Pipeline

Project Planner

April 2015



Project Income

Income	Budget	Actual
Colo Water Resource Power Authority	935,000	934,437
Dept of Local Affairs DoLA	650,000	665,710
CDPHE Small Communities Grant	0	363,000
PAWSD Retainage	0	118,605
TOTAL INCOME	1,585,000	2,081,752

Project Expenses

Expenses	Budget	Actual
Hammerlund PS/FM #1	2,344,948	1,687,995
Hammerlund PS/FM #2	155,966	1,246,496
Soft Costs (legal, construction mgmt, environmental)	0	50,000
TOTAL	2,500,914	2,984,491

Cash Flow

Cash Flow	Budget	Actual
2015 Beginning Cash Balance	1,380,533	1,945,563
Total Income	1,585,000	2,081,752
Total Expense	2,500,914	2,984,491
2015 Year End Cash Reserves	464,619	1,042,824