



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

**TOWN COUNCIL MEETING MINUTES  
TUESDAY, JULY 3, 2012  
Town Hall Council Chambers  
5:00 P.M.**

- I. **CALL MEETING TO ORDER** – Mayor Aragon, Council Member Alley, Council Member Bunning, Council Member Cotton, Council Member Lattin, Council Member Schanzenbaker, Council Member Volger
- II. **APPROVAL of MEETING MINUTES FROM JUNE 21, 2012** – The minutes were approved as read.
- III. **PUBLIC COMMENT** – *Please sign in to make public comment* - No public comment
- IV. **DELEGATIONS**
  1. **Little Sand Fire Update – Dan Kleinman** – Mr. Curtis Heaton with the National Management Team explained the fire is 40% contained, strategy has been to engage and hold the fire where the fire is accessible by foot. Firefighting aircraft has a hard time with the mountain terrain in the area, fortunately they have not required aircraft use. The area has not received significant precipitation, but they do anticipate increasing moisture with the monsoons. No structures have been lost to date. Mr. Heaton expressed his appreciation to the Town and County for the helping this situation. Approximately 24,880 acres has burned so far in the Little Sand fire. He explained a change of direction can happen anytime and heavy smoke is seen mostly in the Piedra River area. Town Council thanked the team for all their hard work.
- V. **LIQUOR LICENSES**
  1. **Liquor License Renewal – Shabri LLC dba Plaza Liquor, 511 San Juan St A Pagosa Springs** – Council Member Lattin moved to approve the liquor license renewal for Shabri LLC dba Plaza Liquor at 551 San Juan St A, Council Member Volger seconded, unanimously approved.
  2. **Special Events Liquor Permit – Pagosa Springs Chamber of Commerce, Renaissance Festival at the Town Park and Athletic Field July 20, 21, & 22, 2012** – Council Member Lattin moved to approve the special events liquor permit for Pagosa Springs Chamber Renaissance Festival July 20-22 in Town Park, Council Member Volger seconded, unanimously approved.
- VI. **NEW BUSINESS**
  1. **Ordinance No. 772, First Reading, Springs Development 10 year Vested Property Rights (Quasi-Judicial-Public Hearing)**- Springs Partners, LLC has requested 10 year Vested Property Rights for their "Springs Development Major Subdivision Sketch Plan A & B" which have received majority vote approval from the Town Planning Commission. On June 3rd, 2008 the Town Council approved a PUD sketch plan for the Springs Resort

development plan, and then approved a series of one year extensions. The property has since changed ownership and the new owner, Springs Partners, LLC, had submitted an application for a revision of the originally approved sketch plan. Town Council discussed the request for vested property rights and the consensus was to approve only Sketch Plan A, to secure a 5th Street ROW extension and Vehicular Bridge ROW. The property owners have offered to give the Town the ROW, however, they want some certainty that the bridge and ROW improvements will occur if they donate the ROW, and want to be protected if the Town were to default on the promise to make the street and bridge improvements, thus the inclusion of Sketch Plan B as an option for the property owner, that would allow a developer to proceed with a development if the town determines the bridge and road extension project would not happen in 2017. Council Member Alley asked if development would happen prior to the ten year vested timeframe, or before the proposed bridge would be built within five years. Mr. Bill Dawson was present and advised Council that the property was recently received. They are interested in continuing the development effort and are in the process of moving forward with the proposed plan with the potential of finding investors or funding themselves. They are indifferent regarding the installation of the bridge. Mr. Dawson advised Council that he and Matt Mees have talked with CDOT and CDOT believed it was a good project and a project they would support, but not financially. Mayor Aragon opened this item for public comment. Mr. Mark Weiler asked about pedestrian ROW and walkway. Town Planner Dickhoff explained Springs Partners has given the town pedestrian easements for a bridge and trail to 6<sup>th</sup> Street, the Town is still seeking funding. Council Member Schanzenbaker asked what vested rights meant and Mr. Dickhoff explained vested rights ensure a property maintains the approved density and benefits the developer to secure investors and develop the parcel. Council Member Volger moved to approve First Reading of Ordinance No. 772, approving the execution of a "Development and Vested Rights Agreement" and Establishing 10 year Vested Property Rights for the Springs Development Major Subdivision Sketch Plan A or B, Council Member Lattin seconded, unanimously approved.

2. **Streets Department Vehicle** - In December 2011, Town Council approved the expenditure of \$30,000 for a new streets department vehicle. The streets department put off this purchase and instead felt it a better investment to purchase a used crack filler for \$19,752. A new street truck with a plow is still a need the streets department would like to fill with Council permission. The cost for a heavy duty truck with plow and necessary safety lighting is approximately \$40,000. Council Member Lattin moved to approve amending budget line item 51-77-454 of the 2012 Capital Budget increasing by \$30,000 from reserves for the purchase of a new truck and plow for the streets department, Council Member Allen seconded, unanimously approved.

## VII. OLD BUSINESS

1. **Ordinance 773, Second Reading, Vacation of Aspen Park Circle in Aspen Village Development** (*Quasi-Judicial-Public Hearing*)- The planning department received an application for Vacation of Public Right of Way and Public Utility Easements on April 05, 2012, from the applicant, Wal-Mart, for the vacation of the Aspen Park Circle cul-de-sac. The Aspen Park Circle cul-de-sac is located within the Aspen Village Subdivision along Aspen Village Drive. Adjoining property zoning is MU-C (Mixed Use Corridor) and OS (Open Space). The adjoining properties are currently owned by Pagosa Partners, 1 Inc. and Echo Bay T-68, LLC. As defined in C.R.S. §43-2-302, the ROW vacation shall vest title of the subject property with these adjacent properties. This application was received in conjunction with applications for "Major Design Review" and "Lot Consolidation and Boundary Line Adjustment" for a proposed Wal-Mart store development located in Aspen Village Subdivision in Block 3, Lots 1-6 and the Open

Space A Lot in AV Phase 2, Block 4. Per the Town's Land Use Development Code (LUDC) several criteria have to be met and approved by the council in order for the vacation to be accepted. The applicant has met the required criteria to vacate this public right-of-way. Lots 1-6 are not under one owner, the applicant is under contract with each owner and will proceed contingent upon permit approvals. The utilities are only for these specific lots and the costs of relocating utilities will be paid by the applicant. Council Member Schanzenbaker asked about items from the June 21<sup>st</sup> meeting that are not present in the July 3<sup>rd</sup> Town Council's packet. Mr. Dickhoff said he thought there may have been a written public comment from Mr. Dan Park given to Town Clerk Hessman, but he did not have the document to provide to council. He explained that Mr. Park was given time to address council at the last meeting. Attorney Bob Cole said the comments made at the last town council meeting were reflected in the meeting minutes, and that the council has the right to ask for documents from the applicant and staff for information to lead to an informed decision on the item. Mayor Aragon opened this item to public comment. Mr. Mark Weiler, with Parelli Natural Horsemanship, supports the vacation of the right of way, as an adjoining property owner. Mrs. Vivian Rader said the recorded plat for ingress and egress on Alpha Drive was restrictive, that the County does not own Alpha Drive. She said Aspen Village Drive violates the access onto Alpha Drive and has forced the residents to go through Aspen Village Drive for turning onto Hwy 160. She said if the rightful owner of Alpha Drive is found a replat would be required and this will bring up multi-jurisdictional issues. Mr. Dickhoff said the plat referenced by Mrs. Rader was signed off by the County Commissioners and dedicated Alpha Drive for public use. Council Member Schanzenbaker asked about a community benefits agreement with Walmart, raised by Juanalee Park, in the case of vacancy of the site. Town Manager Mitchem explained the agreement has not been discussed with Walmart, that this type of agreement is not required for other businesses. Attorney Cole said the big box regulations do not have the authority for this requirement, he also explained the application must meet certain criteria layed out in the LUDC in which the applicant must meet. This applicant is responsible for the roadway, sidewalks, utilities, and obligations required by the project. Mrs. Vivian Rader said the plat approved in 1972 restricts where access onto Alpha Drive is allowed, however Aspen Village Drive accesses Alpha Drive incorrectly from the plat. Mr. Dickhoff said Alpha Drive has always been referred to as a County owned road, and as part of the 2008 Aspen Village development an MOU indicated the Town would annex Alpha Drive when the improvements were completed. Attorney Cole said the discussion regarding Alpha Drive is not relative to the consideration by council of the vacation of Aspen Park Circle. He said the developer and applicant will need to discuss the Alpha Drive situation. Mr. Dickhoff said the vacation is contingent upon this project being completed, and the plat won't be recorded and lots consolidated until the applicant has completed all the steps. Council Member Bunning moved to approve the second reading of Ordinance No. 773, vacating the Aspen Park Circle Public Right-of-Way and associated Public Utility Easements, contingent on an approved final plat for lot consolidation of Lots 1 through 6 of Block 3 in the Aspen Village Subdivision, approval of relocation of utilities by area utility providers and Vacation of Right Of Way Plat requirements, Council Member Volger seconded, motion carried with one nay Council Member Schanzenbaker.

2. **Ordinance 774, Second Reading, Amending Section 16.4.12(2)(a) Municipal Code Town Tourism Committee Members and Terms of Office** - The Town Tourism Committee has not updated its bylaws since November 2008. The seat allocations are outdated and the TTC determined it was time to review and update as necessary. The Builders Association is not active and no longer needs a seat on the Board and The Lodging Association has asked for increased representation on the Town Tourism Committee. At the June 13<sup>th</sup> meeting, the TTC voted unanimously to remove the

Builders Association seat and add one seat for the Lodging Association, with the TTC seat allocations as follows: Lodging Association 3 seats, Realtors Association 1 seat, Chamber of Commerce 2 seats, and At-Large 5 seats. Council Member Volger moved to approved Ordinance 774, second reading, amending section 16.4.12(2)(a) of the Town Municipal Code Town Tourism Committee Members and Terms of Office, Council Member Alley seconded, unanimously approved.

**VIII. PUBLIC COMMENT** – *Please sign in to make public comment* - Mrs. Vivian Rader commented on the mentioned MOU signed in 2007. She said that the intent of the MOU was that by common law, the Alpha property owners and Rockridge owned Alpha Drive. The plat is for a right-of-way. Mrs. Rader feels the MOU is invalid and breached because the Aspen Spring Developers were never required to get a bond.

**IX. Next Town Council Meeting July 26, 2012 at 12noon**

Town Manager David Mitchem advised council that the Town has hired Mr. Zach Richardson as the Town Building Official. He will start Monday.

**X. ADJOURNMENT** – Upon motion duly made, the meeting adjourned at 6:25pm

**Ross Aragón  
Mayor**