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**TOWN COUNCIL SPECIAL MEETING MINUTES
THURSDAY, SEPTEMBER 6, 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 AUGUST 23, 2012** – The minutes were approved as read.
- III. **PUBLIC COMMENT** – *Please sign in to make public comment* – Mrs. Vivian Rader was invited to attend the housing and economic summit at the White House next week. She said this town council is making decisions based on staff recommendation and influences from corporate and political pressures rather than their own research. Mr. Bill Hudgins, with Sunetha Property Management, manages the Lodge Condos Property Owners Association; he said the proposed construction to the Wyndham building will tear out the sidewalk between the Lodge Condos and the Wyndham Resort. He said the association sent the contractor a list of things to agree upon before construction begins. He said Wyndham has sent this list to their corporate office for further discussion.
- IV. **LIQUOR LICENSES**
 1. **Liquor License Transfer – From Yearling & Bumblebee to Slingerland LLC dba DSP Pizzeria 100 Country Center Drive Suite C Pagosa Springs** – Council Member Lattin moved to approve the liquor license transfer from Yearling & Bumblebee to Slingerland LLC dba DSP Pizzeria, Council Member Volger seconded, unanimously approved.
 2. **Liquor License Renewal – The Getaway LLC dba Plaza Grille 27 B Talisman Drive Pagosa Springs** – Council Member Volger moved to approve the liquor license renewal for the Getaway LLC dba Plaza Grille, Council Member Alley seconded, unanimously approved.
- V. **NEW BUSINESS**
 1. **Redevelopment Permit for Wyndham Vacation Resorts** - The applicant proposes a redevelopment of this property following the permit approval and the demolition of the existing 4,500 sq ft office building and demolition of the viewing tower. The building will be replaced with a new 5,500 sq ft building and the viewing tower site will be cleaned up and re-landscaped. With Town Council approval, the applicant will begin the demolition in September 2012, followed by clean up and construction of the new building. The applicant has agreed to post a \$50,000 bond for the project and construction is scheduled to begin this fall. The public notification of this project has been thorough and consistent with Town code. Council Member Lattin said the planning commission asked the builder several questions in detail regarding the demolition and construction as well as the drainage and the PC recommended the \$50,000 bond. Mrs. Judy Rushton, is the president of the Lodge Condominium Property Owners Association, she attended the planning commission meeting and asked several questions. She said the homeowners were not told about the removal of parts of their property and the reconstruction onto their property. She said Wyndham has drainage problems onto their property and an existing sidewalk that will be removed during construction needs to be discussed. She said Wyndham has no right to do the construction without the property owner's authorization. She asked the Council to forbid Wyndham beginning the project until an agreement has been reached

between the POA and Wyndham. Council Member Lattin said that trespassing concerns were not presented to the Planning Commission; she said the drainage issue was discussed and the shedding of the water from the roof reviewed. Town Manager Mitchem said the Town could facilitate a discussion and agreement between the association and applicant. Mrs. Rushton is happy to see Wyndham get started on this project, but would like an agreement worked out prior to construction. Council Member Volger moved to approve the Wyndham Vacation Resorts, Inc. Redevelopment Permit as presented, subject to the condition that a mutual agreement is reached between the Lodge Condominium Property Owners Association and Wyndham Resort prior to any action being taken on this project, and contingent on the submission of approved financial collateral in the amount of \$50,000, Council Member Bunning seconded, unanimously approved.

2. **Street Paving Options – Piedra Street** – With the approval of the 2012 budget, Town Council delayed the paving of Piedra Street between 10th and 8th Streets, a road that was suggested in the Capital Improvement Plan. The deterioration of this road along with revenue stabilization and the attractive offer of \$79,550 by Strohecker Paving to complete the work this year have prompted staff to ask Town Council to consider paving this year. Town Manager Mitchem said there has been a verbal quote from a competitor of \$83,000 but they are unable to start in 2012. Council Member Cotton said he would rather not complete this sole source and he would like this project to include a sidewalk along this road for access to the elementary school. Council Member Lattin agrees with including a sidewalk as does Council Member Schanzenbaker and Volger. Staff will consider completing this project in the next few years referencing to the capital improvement plan.

VI. OLD BUSINESS

1. **Ordinance No. 775, Second Reading, Alpha Drive Quitclaim Deed** - Alpha Drive has been considered for annexation into Town on a number of occasions, as a result of the previously approved Aspen Village Development. With Wal-Mart proposing a 92,000 square foot retail and grocery store along the east side of Alpha Drive, the Town will require Wal-Mart to improve this gravel road to the town's standards, as a condition of approval. To require the road be improved to town standards the road will need to be in the Town's control. On August 14, 2012, the BOCC approved a Quitclaim Deed transferring their ownership to the Town. The town will require the applicant to supply the full bonding of the construction of the road as well as a 25% bond for warranty work over three periods. Council Member Schanzenbaker asked about the town standards set in the LUDC and if the applicant is putting curb, gutter and sidewalk on only the east side and not the west side. Town Manager Mitchem explained that Alpha Drive is considered an access road and not in the Aspen Village development. He said the west side of Alpha Dr. is owned by Wyndham Resort and they will be required to install the curb, gutter, and sidewalk during their development of the west side. He said the acceptance of the quitclaim deed is not a condition of the requirement of curb, gutter and sidewalk on the west side. He said the Town's legal counsel does not believe the acceptance of the quitclaim deed needs to be contingent on the design standards of the road. Town Manager Mitchem explained that during annexation and the design review board appeal process, there will be time for the Town Council will discuss this item. Council Member Schanzenbaker disagreed saying the Ordinance refers to the Town Standards for the road. Council Member Alley said that for the sake of getting things done properly, and maybe this will happen during the annexation, the Town should require the applicant to at least put a curb and gutter along the west side of the road. He said this will assist in the future maintenance and upkeep of the road. Mrs. Vivian Rader recommends the council postpone this second reading. She presented several documents including the memorandum of understanding between the Metro District, Alpha Developers, Town and County, district meeting minute excerpts, county documents, and adverse possession information. She said the town messed up with the original MOU and suggests the council wait to accept the road until a service agreement for the road is drawn up for the maintenance of the road. She said there may be a public safety issue during the interim between the acceptance of the road and the time the road is improved. Town Manager Mitchem said the documents submitted for appeal of the design review board's decision have been sent to legal counsel and staff is awaiting counsel comments. Council Member Volger moved to approve the second reading of Ordinance No. 775, an ordinance of the Town of Pagosa Springs accepting the Quitclaim Deed for a portion of Alpha Drive, Council Member Cotton seconded, unanimously approved.
2. **Ordinance No. 777, Second Reading, SkyWerx Reservoir Hill Ground Lease** - SkyWerx is

seeking the opportunity to utilize property located on Reservoir Hill that is owned by the Town of Pagosa Springs for the construction of a tower, not to exceed 100 feet in height proposed 80ft, as well as the termination and redistribution of broadband resources. In return for the Town of Pagosa allowing SkyWerx to move its equipment to a newly built tower, SkyWerx will purchase and deploy a 365 Mbps licensed backhaul to provide a free 60 Mbps Internet connection (estimated costs \$22,000 annually) to the Town of Pagosa Springs and Archuleta County. SkyWerx also intends to utilize its excess capacity to increase the broadband capacity to the Public Library and the School District at no additional charge. The county is looking at other options for their technical solutions, but the town will work with the county if they do not participate with the Town. Council Member Alley moved to approve Ordinance No. 777 on second reading, an ordinance authorizing the execution and delivery by the Town of Pagosa Springs Colorado of a ground lease between the Town and Skywerx Industries LLC, and approve the expenditure of up to \$10,000 from the Capital Fund reserves for the purchase of equipment to facilitate the Town's use of the free 60 Mbps Internet connection, Council Member Bunning seconded, unanimously approved.

- 3. Ordinance No. 779, Second Reading, Medical Marijuana Business Moratorium** - Town Council has considered the Medical Marijuana Business issue a number of times over the last 3 years. Staff had expected the State to have new legislation in place in July of 2012; however, this has not taken place. The current moratorium expires on September 1, 2012. Even with the expiration of the moratorium on September 1, 2012, the Town's municipal code section 6.1.7. "Qualifications of Applicants" *The licensing officer shall approve an application and issue a license unless he or she determines that the business to be operated would violate the laws of the United States, State of Colorado or the Town* " provides the Town the ability to deny a Business license application. Council Member Alley suggests forming a sub-committee to look into the course of this subject, rather than continuing moratoriums each year while waiting for the State of Colorado to define their laws. Council Member Lattin moved to approve second reading of Ordinance No. 779 an Ordinance Suspending the Processing of Applications for Medical Marijuana Centers, Medical Marijuana Optional Premises Cultivation Operations and Medical Marijuana Infused Product Manufacturing Businesses until July 30, 2013, Council Member Bunning seconded, motion carried with one nay (Council Member Schanzenbaker).

VII. PUBLIC COMMENT – *Please sign in to make public comment*

VIII. NEXT TOWN COUNCIL MEETING SEPTEMBER 27, 2012 AT 12:00PM – Staff recommends October 2nd at 12noon be set for the Wal-Mart DRB appeal, and the regular meeting be set to October 9th, the mid-month meeting shift to the October 25th, November 6th meeting to the 7th of November to accommodate the presidential election.

IX. ADJOURNMENT – Upon motion duly made, the meeting adjourned at 6:15pm.

Ross Aragón
Mayor