551 Hot Springs Boulevard
Post Office Box 1859
Pagosa Springs, CO 81147
Phone: 970.264.4151
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TOWN COUNCIL SPECIAL MEETING AGENDA
THURSDAY, JULY 23, 2015
Town Hall Council Chambers
551 Hot Springs Blvd
5:00 p.m.

I. CALL MEETING TO ORDER

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

III. CONSENT AGENDA

1. **Approval of the July 7 & 16, 2015 Meeting Minutes**
2. **Approval of June Financial Statement and Accompanying Payments**
3. **Liquor Licenses**
   a. **Liquor License Renewal – Ramon's Restaurant at 56 Talisman Drive Pagosa Springs**
   b. **Special Events Liquor Permit – FolkWest Inc. Folk Festival September 4, 5, & 6, 2015 at Reservoir Hill Park**

IV. REPORTS TO COUNCIL

1. **Featured Department Head Reports**
   a. **Municipal Court Department**
   b. **Planning Department**
2. **Sales Tax Brief**
3. **Lodgers Tax Brief**
4. **Hot Springs Pedestrian Bridge Report**

V. NEW BUSINESS

1. **Honoring Bob Hand's Service to the Community**
2. **Resolution 2015-11, Appointing Lindsey Smith to the Historic Preservation Board as an Alternate Member for a Four Year Term**
3. **Resolution 2015-12, Appointment of Amanda Gadomski to the Parks & Recreation Commission as a Full Member for Two Year Term**
4. **Ordinance 830, First Reading, Repealing and Readopting Municipal Code Sections 6.5.1.9(1)(u) and 6.5.1.9(1)(v) regarding Marijuana Business Regulations**
5. **Ordinance 831, First Reading, Amending Municipal Code Section 16.4.9 regarding Enforcement of the Lodgers' Tax**
6. **Support for the BOCC to Solicit a Historical Assessment for the County Courthouse Building**
7. **Support for Archuleta County's Notice of Intent for a November 2015 Ballot Measure**
8. **Request for Leave of Absence by Council Member C.K. Patel for a period of Two Months**

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

Public comment and agenda comment item sign-up sheets are available at meeting
Copies of proposed Ordinances and Resolutions are available to the public upon request to the Town Clerk

VII. COUNCIL IDEAS AND COMMENTS

VIII. NEXT TOWN COUNCIL MEETING AUGUST 4, 2015 AT 5:00 PM

IX. ADJOURNMENT

Don Volger
Mayor

551 Hot Springs Boulevard
Post Office Box 1859
Pagosa Springs, CO 81147
Phone: 970.264.4151
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TOWN COUNCIL MEETING MINUTES
TUESDAY, JULY 7, 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. Bill Hudson asked that the town council encourage town residents to get involved with town projects, like the Geothermal Greenhouse Project in Centennial Park, as well as County projects.

III. CONSENT AGENDA

1. **Approval of the June 15, 2015 Meeting Minutes**
2. **American Tower Sub-Lease Approval**
3. **SBA Tower Sub-Lease Approval**
4. **DoLA GGP Contract Approval**
5. **Liquor Licenses**
   a. **Liquor License Renewal – Pagosa Peak Partners LLC dba Higher Grounds Coffee at 189 Talisman Drive A** – Council Member Alley recused himself from the consent agenda item 5a.

Council Member Lattin moved to approve the consent agenda, Council Member Bunning seconded, unanimously approved.

IV. NEW BUSINESS

1. **Pickleball Paint Stripes Request for New Gym Floor** - Recreation and Community Center staff have been in communication with members of the group playing pickleball at the Community Center, they presently use the gym to play several days a week. The group has requested to have permanent striping for pickleball courts painted on the new hardwood gym floor. Town staff is not supportive of painting the pickleball lines for a number of reasons. The pickleball group would like to be included as a real sport in the community with dedicated lines. If approved there would be a $640 change order required with the flooring installation company. Mayor Volger said the staff decision to not include the pickleball lines was not made unilaterally and the town council is more of a policy decision body. He said this time was a chance for the pickleball players to express their opinion and desire to include the lines. Ms. Heidi Moller said the currently taped

lines do not cause any confusion for the referees during basketball or volleyball. The repair and replacement costs associated to replacing the taped lines have been covered by the pickleball the last five years. The group is willing to pay the cost for installation and painting of the lines on the gym floor. Mr. Mark Kimmel produced photos for the town council to view. He said most pickle ball is played outdoors and that lines for pickleball don't pose a problem for other sports. Mr. Bill Hudson said when it was built the Coalition added two rooms for the Arts Council which is now defunct. He said the taped lines haven't caused confusion for the past five years and agrees with adding the permanent lines. Town Manager Schulte said managing the facility is staff's goal. There are three courts currently lined in the gym. Council Member Egan said the group needs more than just the three courts the community center offers. He said the Town needs to support the pickleball players. Council Member Lattin said the youth is a little confused on which lines are for which sport. She said a recreation center would be a great place for pickleball courts, not the community center. Council Member Schanzenbaker asked if permanent lines could be put down in the top layers of the polyurethane rather than on the wood. Mr. Bill Hudson said it would be impractical to put the stripes in between polyurethane. Mr. Will Dunbar said the pickleball group uses the gym the most during the week. He said as a compromise, if small squares at each corner were painted that would expedite the taping process for the group. Council Member Egan moved to affirm the current staff's recommendation and to work with the group to assist in fostering pickleball in our community, the motion died for lack of a second. Council Member Bunning moved to support staff decision and recommendation to not install permanent striping but include permanent corner markers to support installation of tape, Council Member Egan seconded, motion carried with one nay (Council Member Patel).

2. **Geothermal Project Advance Funding Reduction to $125,000** - The Town of Pagosa Springs and Archuleta County executed the Pagosa Area Geothermal Water and Power Authority (Authority) Agreement that created the Authority with the purpose of exploring for geothermal resources and possible development of those resources. With grants from DOE and DOLA and funds from the town and county, drilling progressed. It soon became apparent that the Authority needed funding to pay for the initial costs and then be reimbursed subsequently by the DOLA grant. On March 3, 2015 the Town Council approved advancing up to $250,000 to the Authority for drilling expenses to be reimbursed by the DOLA grant. On May 6th, the PAGWPA Board met to discuss the present status of the drilling and whether advance funding was still needed from the Town and County. It was concluded that additional funding was still needed to take advantage of the DOLA funding, but given the short period for drilling time left, only half the original amount would be needed, or $125,000 from each entity. On May 6th the PAGWPA board agreed to this reduced amount. The BOCC agreed to the reduction with a promissory note to be signed by Pagosa Verde. Commissioner Lucero representing the PAGWPA board requested the reduced amount. The drilling is complete, final billing should be complete in September. Council Member Bunning moved to approve continued advance funding, appropriated from General Fund reserves, an amount not to exceed $125,000, matching a $125,000 contribution from Archuleta County, for the purpose of providing bridge funding for expenses related to test geothermal drilling. Any funding advanced is to be reimbursed by the Department of Local Affairs Energy Impact Grant awarded to the Pagosa Area Geothermal Water and Power Authority, Council Member Alley seconded, unanimously approved.
3. **Town Investment Sub-Committee – CD Investment Approval** - The Town of Pagosa Springs has maintained several Certificate of Deposits (CD) over the years which have invested funds from both the General Fund and the Sanitation Fund. Staff believes circumstances in banking have changed whereby a more proactive approach needs to be

taken in regards to investing the public funds. Staff recommends the establishments of a Town Investment Sub-Committee. Council Member Egan moved to approve establishing a Town Investment Sub-Committee to assist staff in providing recommendations to the full Town council for investment of Town funds and name Council Members Schanzenbaker and Bunning as representatives, Council Member Alley seconded, unanimously approved.

4. **Trujillo Road Change Order** – During the pipeline installation the Town was invited to "piggy back" on the Trujillo Road project in order to pave the 1,900 linear feet of Trujillo Road that lies within Town Boundaries. The paving would include Trujillo Rd from the town boundary to the concrete intersection at 8th Street and Apache. The estimated cost for the additional 1,900 linear feet of roadwork was $340,835 which included a 10% contingency. Since the time the estimate was prepared, the project has gone out to bid and the lowest bid came in 16% higher than estimated. The total price for the paving project including engineering is $368,193. The Town Council approved using funds from the 5-year capital project and the impact fees the balance will come from reserves. Council Member Alley 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 $368,193 with $217,000 in funding coming from the 5 Year Maintenance Plan line item, $111,000 coming from un-obligated funds from the Piedra Street construction project, and the balance of $40,193 coming from fund reserves, Council Member Bunning seconded, unanimously approved.
5. **Resolution 2015-10, Re-Appointing Ron Maez to the Planning Commission** - Mr. Ron Maez has served the last 4 years on the Planning Commission as a regular member. His 4 year term expires on July 1, 2015. Mr. Maez has expressed interest in continuing his service on the Planning Commission at the discretion of Town Council. Mr. Maez currently serves as the Planning Commission Chair. Council Member Bunning moved to approve Resolution 2015-10, a resolution of the Town of Pagosa Springs, re-appointing Mr. Ron Maez to the Planning Commission for an additional four (4) year term commencing on July 1, 2015 and concluding on July 1, 2019, Council Member Lattin seconded, unanimously approved.

V. OLD BUSINESS

1. **Second Reading, Ordinance 829 Vacating Public Utility Easements between Lots 6 & 7 in Paradise Mesa** - The Town received an application for a Lot Consolidation for Lots 6 and 7 of the Paradise Mesa Subdivision. The applicant proposes to build a single family residence on the consolidated lot. As part of the Lot Consolidation, the perimeter Public Utility Easements (PUE) between Lots 6 and 7 are being requested to be vacated. This is a typical request for lot consolidations. There is no fiscal impact to the Town. All expenses associated with this application are the responsibility of the applicant. Council Member Egan moved to approve the second reading of Ordinance 829, an ordinance of the Town of Pagosa Springs vacating the public utility easements between Lots 6 and 7 in the Paradise Mesa Subdivision as shown on the Paradise Mesa Subdivision Plat #441A, Council Member Alley seconded, unanimously approved.

VI. PUBLIC COMMENT – Mr. Bill Hudson said the BOCC expressed the belief that the data collected by the drilling of the geothermal wells belongs to the people. He would like the PAGWPA board to request an understandable report on the data collected by Pagosa Verde for the people to view.

VII. COUNCIL IDEAS AND COMMENTS - Council Member Bunning said the town is providing all the recreational amenities in the town and much is free of charge. He said during budget the council should look at the fee schedule and how the town might offset the costs of making the

community center accessible. Town Manager Schulte said the community center is doing an occupancy study to review the uses. He will give the council the cost recovery and operational expenses of the community center. Council Member Lattin said the fireworks this year were a little less than what she expected, but did like that the Town hired it out for the safety of the employees. During the budget process she would like look at how to enhance the fireworks show. Town Manager Schulte said the group hired to set off the fireworks did not meet expectations, but they were the only group who were available at the price set by the budget. Council Member Egan would like staff to look at next year's fireworks beginning now. Council Member Egan said there are a great amount of pedestrians in the downtown area, he would like to see more speeding deterrents to slow down traffic. He said the downtown crosswalks are not good and need to be addressed. Council Member Schanzenbaker said planters like Breckenridge installs to pinch down in the crosswalk areas seems to help their town traffic concerns.

VIII. NEXT TOWN COUNCIL MEETING JULY 23, 2015 AT 5:00 PM

IX. ADJOURNMENT – Upon motion duly made, the meeting adjourned at 6:45pm.

Don Volger
Mayor

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TOWN COUNCIL SPECIAL MEETING AGENDA MINUTES
THURSDAY, JULY 16, 2015
Town Council Chambers
Town Hall
551 Hot Springs Blvd
7:30 a.m.

I. CALL MEETING TO ORDER – Mayor Volger, Council Member Alley, Council Member Bunning, Council Member Lattin, Council Member Schanzenbaker

II. LIQUOR LICENSE

1. **Special Events Liquor Permit – Friends of the Upper San Juan River Cruise-A-Thong event July 18, 2015 at the Town Park on Hermosa Street –** Council Member Lattin moved to approve the special events liquor permit, Council Member Schanzenbaker seconded, unanimously approved.

III. ADJOURNMENT – Upon motion duly made, the meeting adjourned at 7:35am.

Don Volger
Mayor

AGENDA DOCUMENTATION

CONSENT AGENDA:III.3

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: BILL ROCKENSOCK, POLICE CHIEF

PROJECT: LIQUOR LICENSE RENEWALS
ACTION: DISCUSSION AND POSSIBLE DECISION

PURPOSE/BACKGROUND

Businesses granted liquor licenses by the State of Colorado and the Town of Pagosa Springs are required to renew their liquor license annually. The Town Council, as the Local Licensing Authority, has requested that the Police Department provide them with information on police contacts with these businesses in consideration of their renewal application.

Annually, the Police Department works with the Colorado Liquor Enforcement Division to conduct compliance checks on businesses within the Town of Pagosa Springs holding liquor licenses throughout the year, Officers do perform random checks/walk thru of businesses selling liquor in the town limits.

The vendors listed below have requested a renewal of their liquor license. Based upon a local records check, the Police Department has found the following:

> **Ramon's Restaurant** – Since July 1, 2014, there were no documented liquor violations at Ramon's Restaurant, located at 56 Talisman Dr.
>
> **Folkwest, Inc**. (for Special Events Liquor Permit) – Since July 1, 2014, there were no documented liquor violations for Folkwest, Inc., with regard to Special Events at Reservoir Hill Park.

ATTACHMENT(S)

None

RECOMMENDATION

It is the recommendation of the Police Chief that the Town Council:

- **Consider the above information when determining approval of liquor license renewals**

AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV.1.A

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: CANDACE DZIELAK, COURT ADMINISTRATOR

PROJECT: MUNICIPAL COURT, DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

IN-COURT ACTIVITY UPDATE AND SUPERVISION CASELOAD UPDATE

COURT SESSIONS ~ Four (4) court sessions were conducted in June 2015.

Pagosa Springs Municipal Court June 2015 Offender Characteristics		
Total Offenders Docketed	67	
Traffic	17	
Adults		16
Juveniles		1
Criminal	50	
Adults		27
Juveniles		23

Pagosa Springs Municipal Court Current Supervision Caseload July 2, 2015	Total	% of Caseload
Cases Under Supervision	67	—
Juveniles	21	31.34%
Adults	46	68.66%
Males	41	61.19%
Females	26	38.81%
TOTAL WORKLOAD UNITS	**176.19**	

CONTINUING EDUCATION UPDATE

- The Court Administrator, Candace Dzielak, attended the annual E-Force Training and Conference on June 24, 2015. This training will assist court staff with enhancing the Court's records management system (RMS), and training was received on E-Force's new version of software scheduled for implementation by the end of 2015.

HUMAN RESOURCES

- The Court Administrator has collaborated with the Human Resource/Records Clerk and the Town Manager to draft an updated employment agreement for the presiding Municipal Court Judge. The draft agreement is presently under review by the Town Attorney. It is anticipated this will come before Council on August 4th.

COMMUNITY AND REGIONAL COLLABORATION UPDATE

- Ongoing ~ Municipal Court staff is in frequent contact with staff of the Archuleta Combined Courts in an effort to accommodate their need for useable space for court proceedings. To date, Municipal Court has hosted the Archuleta County Combined Courts once, and they returned the favor by allowing Municipal Court to conduct a jury trial in their facility.

2015 BUDGET

1) **Personnel** ~ Current staffing levels in Municipal Court are not adequate to effectively operate the Court and deliver required services to clients of the Court and Probation Office. Pursuant to Council discussions, at its meeting on November 20, 2014, Municipal Court staff is prepared to bring a decision brief before Council to request approval to proceed with the hiring of a Deputy Court Clerk. The hiring of a full-time Deputy Court Clerk will alleviate department workloads, allow the completion of delayed projects, and allow the Court Administrator to return to her duties as administrator and probation officer.
2) **Town Prosecutor Update** ~ The annual encumbrance for the Town Prosecutor position, line item 10-48-230, is 98.5% expended through June 30, 2015. The hourly rate for prosecutorial services increased by 33% in 2015. It is expected year-end expenditures in this line item will be approximately 50%-70% over the budgeted amount of $16,000. A budget amendment, if necessary, will be brought to Council at the end of the fiscal year.
3) **Prosecutor Pro-Tempore** ~ Attorney Kenneth Miller has been called into service, for the month of July, to meet case processing deadlines.
4) **Judge Pro-Tempore** ~ Judge Diane Knutson has been called into service twice in 2015. To date, 41% of line item 10-48-115 has been expended.
5) **Technology** ~ Eric Hittle, of ECHO IT Consulting, has successfully configured the CISCO device in the Municipal Courtroom to accommodate point-to-point video conferencing with the La Plata County Detention Center.

2015 WORKLOAD AND STAFFING NEEDS

1) **Court Dockets** ~ In 2015, to date, Municipal Court has scheduled five (5) additional court dockets to accommodate case volume. A minimum of two (2) additional court dates will be scheduled to accommodate pending violations of the Town's nuisance ordinances. Judge Anderson is scheduling mandatory review hearings for the majority of defendants to ensure compliance with court orders and to enforce probationary conditions; these review hearings have significantly increased docket size. Judge Anderson is anticipating the need for one additional court date per month to alleviate the increased volume and complexity of cases. Existing staff will have difficulty accommodating an additional court date while still adhering to their case processing, data entry, and client visit requirements.
2) **Town Prosecutor** ~ The number of cases requiring prosecutorial services has increased, and this demonstrates a trend as case filings increase. Legislative mandates have expanded court-appointed legal representation to more defendants which often results in an increased number of hearings and a lengthened timeline to arrive at dispositions. The number of probation revocations has increased.
3) **Supervision Caseload and Workload Values** ~ The Court Administrator/Probation Officer cannot perform, with fidelity, her duties as probation officer and community service coordinator. The supervision caseload is well above average for a full-time probation officer. The supervision caseload for July 2, 2015 was 67. On July 17, 2014, the supervision caseload was 56. The average caseload for January 2015 through June 2015 was 62 clients. The caseload is trending upward, but the caseload, alone, does not determine the workload. The Chief Probation Officers' Association has determined workload values which are assigned to each probation client based upon the level of supervision the client requires. These workload values are added together to determine workload units. The municipal probation caseload, as of July 2, 2015, represents approximately 176.19 workload units; it is recommended a full-time probation officer have no more than 124 workload units.

4) **Court Administration** ~ The Court's adherence to Colorado Municipal Court Rule (C.M.C.R.) 210 (b)(4)(I) has increased the traffic docket and requires the Court Administrator to be present at all Court hearings to provide and process discovery, facilitate telephonic appearances and advisements, provide information for sentencings and court reviews, and perform data collection. While doing clerical tasks, the Court Administrator/Probation Officer cannot review legislative changes, complete statistics and other reports, provide adequate supervision to probation clients, leave the office to do site visits, and receive and return phone calls in a timely manner.
5) **Victim Notification** ~ In 2015, to date, Municipal Court has researched and processed victim impact statements for more than ninety (90) victims. This includes contacting the victims by telephone to confirm names and mailing addresses, preparing personalized victim impact statements and cover letters for each defendant, and preparing and mailing notices of proceedings when restitution hearings are scheduled or rescheduled.
6) **Discovery, Warrant Entry, Driving and Criminal Histories** ~ Without a staff attorney to perform municipal prosecutions, the Court Administrator continues to provide all discovery and criminal history information to facilitate victim notification, case prosecution, and sentencing. With the increase in the traffic docket, this responsibility takes substantially more time thus taking the Court Administrator away from her other duties.
7) **Delayed Responsibilities and Projects** ~ Current staff workloads prevent the completion of the codification of legislative updates, community service coordination, thorough data entry into the records management system, statistics, records retention, and collections.
8) **Unfunded Liability** ~ In 2015, the Court Administrator and Court Clerk have accrued substantial amounts of compensatory time required to complete the legal and time-critical obligations of the Court. This has resulted in an additional financial liability of $2,192.00 year-to-date.

AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV.1.B

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: JAMES DICKHOFF, PLANNING DIRECTOR

PROJECT: PLANNING DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

HISTORIC PRESERVATION BOARD (HPB) UPDATE

The July 8, 2015 HPB meeting minutes are being drafted and will be included in your August staff report (we are experiencing a large volume in the office currently).
On July 8th, the HPB:

~ Approved a sign permit application for "Footprints Shoe Store" at 456 Pagosa Street.
~ Approved a sign permit application for "Two Old Crows-Décor and More" at 498 Lewis Street.
~ Approved a sign permit application for the "Parish Hall" at 445 Lewis Street.
~ Approved a recommendation for Town Council to appoint Lindsey Smith to the HPB.
~ Approved a letter of recommendation for Council to request the BOCC to seek a Historical Assessment of the County Courthouse building.

The Next regular HPB meeting is on August 12, 2015 at 5:15 pm in Town Hall.

PLANNING COMMISSION (PC) UPDATE

The June 09, 2015 PC minutes and the June 30, 2015 Board of Adjustments (BoA) Appeals Hearing minutes are attached for TC's review. Unless signed by the board chair, these minutes are in DRAFT form and have not yet been reviewed or approved by the PC. The July 14th PC meeting was cancelled.

On June 09, 2015, the Design Review Board (DRB) considered and approved the "Major Design Review" development application from the Pagosa Medical center for a proposed expansion. The Hospital is working on the submission of the building permit plan set and they hope to begin breaking ground in September 2015.

The Board of Adjustments (BoA) will continue an Appeals Hearing on Tuesday July 21, 2015 at 5:30pm in Town Hall, to further consider an Appeal from Wal-Mart Real Estate Business Trust regarding the Planning Directors determination on the exterior parking lot lights being in violation of the Town LUDC. **Since the BOA decision is likely to be Appealed to Town Council, it is important to note that the matter is a Quasi-Judicial matter and that Town Council members should not discuss this issue with anyone outside of the actual hearing.**

The Next Regularly Scheduled Planning Commission meeting is on July 28, 2015.

WALL MART

Staff continues to work with Walmart staff, design team and general contractor for resolution on a number of items. The requested "Loading Dock" landscape screening has been installed on the Cottage development's property.

The Board of Adjustments conducted an Appeals Hearing on June 30th and decided to continue the hearing on July 21st. The BoA heard testimony from Walmart and the Town Planning Director regarding the Planning Directors Final determination on the parking lot lights not being in compliance with Town's exterior lighting regulations pursuant to LUDC section 6.11. **This is a Quasi-Judicial Matter, thus, the issue should not be**

discussed with anyone outside of the appeal hearing, as each party has the right to appeal the BoA's decision, which would be heard and considered by Town Council.

PEDESTRIAN WALKWAY INSTALLATION BETWEEN SOUTH 8TH AND SOUTH 7TH STREETS

The Town Streets department has installed improvements to accommodate a new pedestrian pathway between S. 8th Street and S. 7th Street. The Streets Department installed a new log rail fence, new parking blocks, parking lot stripping and a hard surfaced connection with the S. 8th Street intersection sidewalk ramp. This new pedestrian connection provides connectivity to and from the new lighted intersection pedestrian crossing facility.

200 BLOCK SIDEWALK PROJECT

The project is substantially completed with a few small outstanding items. The new Street lights have been ordered and the expected delivery is in September 2015.

GEOTHERMAL GREENHOUSE PROJECT

The Geothermal Greenhouse partnership project has advertised for construction bids, which are due by Tuesday July 21st at 2pm. Included in the bid request are a number of add-on's and in-kind work, which will take some time to review after the bids are received, to develop a comprehensive bid abstract. 5 Bidders requested plans and attended the mandatory bid meeting on July 7th. It is anticipated the project could potentially begin breaking ground by the second week in August 2015.

LEWIS STREET STONE ARCH BRIDGE

Staff has received a shoring plan from the Collaborative, Inc. for temporary shoring of the stone arch bridge. Staff has also inquired about an emergency grant to initiate the shoring while our restoration grant application is being considered. Unfortunately our work load has deferred follow-up on the possibility of an emergency grant. We hope to have more information before the August 4th TC meeting.

TOWN TO PAGOSA LAKES TRAIL SEGMENT PROJECTS

The Town's hired third party Uni-Form Act Specialist "Universal Services" continues to work on finalizing the property acquisitions needed for the West and east phases of the TTPL trail commuter routes. Our original representative recently push up her retirement, which unfortunately left a void for her fellow staff members to fill. Staff is working with the Universal staff members to reinitiate the momentum for securing the needed trail easements. Town staff has conducted as much of the work we are able to assist with at this time.

CARGO SHIPPING CONTAINER REGULATIONS

At the June 02, 2015 TC meeting, Town Council members were encouraged to forward their comments to Town staff regarding the proposed regulations for the placement, use and design criteria for allowable cargo shipping containers.

Since then, staff has received one comment from Council member Alley who stated *"I only have one item that I would like to see worked on. Could we look into the residential regs a little more? Mostly to make sure that we have a definite understanding of how they would look when their finished. I think that would satisfy me. Thanks, Clint"*

Since it appears the split votes/views on this subject, are in reference to the Residential regulations, and as a means to keep this issue moving forward, the Planning Director recommends we bring a separate Ordinance to Town Council for Residentially zoned districts and keep the Commercial regulations separate. If by consensus Town Council supports this direction, Staff will bring a commercial ordinance for consideration on August 4th and prepare a Residential ordinance to consider at a following meeting.

ELECTRONIC MESSAGE CENTER SIGNS

Staff is researching night time illumination regulations from other communities as directed by Town Council. Our findings will be presented in August.

PLANNING DEPARTMENT WORK LOAD

The Planning and Building department has experienced a heavy work load this year. Building permits and development is higher than we have seen in many years, as is daily inquires for potential developments, building, land use permits and special projects. Unfortunately, the response time for processing land use applications has been extended this year, resulting in delayed private projects.

We continue to handle daily business in a fairly timely manner, however, many special projects we are working on have suffered in progress, due to daily office operation work-loads.

We continue to operate with our priorities in mind, knowing that everyday adds items to the work load, some permanently or temporarily changing priorities.

The Planning Director has expressed concern over staffing levels in the past, and continues to do so. The observation is we could make much more progress on special projects and have faster application review and turn-around times with additional staff and resources. In addition, many potential opportunities fall to the way side as we are limited to how much we can accomplish with our current staffing levels.

Town of Pagosa Springs
Planning Commission, Board of Adjustments & Design Review Board
Regular Scheduled Meeting Minutes
June 9, 2015

Town Hall, Council Chambers, 551 Hot Springs Boulevard, Pagosa Springs, Colorado 81147

I. **Call to Order / Roll Call:** Commission Chair Ron Maez called the meeting to order at 5:30 PM. Commissioners Kathie Lattin and Heidi Martinez were present. Commissioners Peter Adams and Natalie Woodruff were absent. Also present were Planning Director James Dickhoff, Associate Planner Margaret Gallegos, Pagosa Mountain Hospital representatives Matt Meese, Boulder Associates Jon Tucker and Matt Meese, Davis Engineering Mike Davis, Hospital Board members, and Ed Fincher.

II. **Announcements**: None.

III. **Approval of Minutes:** Motion by Member Lattin, seconded by Commissioner Martinez, and unanimously carried to approve the May 12, 2015 and May 26, 2015 meeting minutes as presented.

IV. **Public Comment:** None received.

V. **Board of Adjustments:** None.

A. **Vacation of Public Utility Easement along Lots 6 & 7 in Paradise Mesa:** Planning Director Dickhoff reported that the Town Planning Department received an application for Lot Consolidation for Lots 6 and 7 in the Paradise Mesa Subdivision. The lots have perimeter Public Utility Easements (PUE) and part of the lot consolidation process, involves vacating the PUE between lots 6 and 7 to accommodate a new residential home to be built over the former lot after the lot consolidation.

Dickhoff further reported that vacation of PUE is a typical procedure for most all lot consolidations, which accommodates the entire lot as developable with no interior easements to build around, if PUE are not already installed. As part of processing plat amendment applications, all public utility providers are requested to provide comments on the proposed plat amendment. Comments received from all public utility providers indicate that there are NO public utilities installed within the PUE being requested for vacation. Public Utility Easements are available for use by public utility providers recognized by the Town of Pagosa Springs though a formalized franchise agreement. Public utility easements provide routes to install underground public utility lines to serve subdivisions and individual lots that are situated away from the main utility line. Since Public Utility Easements are dedicated on recorded property and subdivision plats, a formal vacation is required, through two readings of an ordinance approved by Town Council.

Plat Amendments (which include lot consolidations) are administratively reviewed and approved by the Planning Director. The Town has historically vacated PUE with no installed utilities, with a Plat Note on the Plat Amendment, however, this practice has been challenged by some utility providers who believe they own the easement right and from a few surveyors who suggest a formal vacation occur in some fashion that can be referenced to on the new plat. The challenge

DRAFT

from the Utility Companies is that they believe they own the easement and they should be required to approve and quit claim their right to the easement. The Planning Director and the Town's attorney disagree with this position, as the Town in essence controls the PUE because the Town approves which utility providers operate and install public utilities within Town boundaries. Though the Town's attorney has supported the Plat Note vacation in the past, after further review and the challenge from some utility providers, it is now suggested the Town Vacate PUE under the same process as vacating Town rights-of-way. This vacation process requires the Planning Commission to hold a Public Hearing, and make a recommendation to Town Council for their consideration in approving a vacation with two readings of an Ordinance, at public hearings.

Dickhoff presented a written report and reviewed the Town's LUDC section 2.4.3 which outlines the process for vacating public easements. In closing, Dickhoff noted that the Public Utility Easement vacation does not affect the intent of the Comprehensive Plan or other adopted Town policies and plans, including any adopted transportation.

Dickhoff noted that no verbal or written public comments had been received as of Tuesday, June 2, 2015. Public notice was provided as follows pursuant to LUDC section 2.3.6:

a. Published in the Sun Newspaper on May 21, 2015, which is at least 15 days prior to the hearing.
b. Posted on the subject property on May 21, 2015, which is at least 15 days prior to the hearing.
c. Posted at Town Hall on May 20, 2015, which is at least 15 days prior to the hearing.
d. Mailed to property owners within 300 feet of the subject property on May 21, 2015, which is at least 15 days prior to the hearing.

The Planning Commission considered the information provided and made the following motion: **Motion by Commissioner Lattin, seconded by Commissioner Martinez, motion carried unanimously to APPROVE a recommendation for Town Council to APPROVE the vacation of the Public Utility Easement between Lots 6 and 7 in the Paradise Mesa Subdivision.**

B. **Recommendation regarding Letter of Interest to serve on the Planning Commission from Greg Giles:** Planning Director Dickhoff reported that the Town has received a letter of interest to serve as a Planning Commissioner from Greg Giles. Mr. Giles resides at 107 Lewis Street and owns the business located at Eagle Drive. Dickhoff provided the Commission with the Land Use and Development Code (LUDC), Section 2.5.2.B which reviews PC members and eligibility. Mr. Greg Giles lives within the Town boundary's and thus is an eligible candidate for the planning commission pursuant to LUDC section 2.5.2.B.1. Based on the recommendation by the Planning Commission, the Town Council will consider the appointment at their June 15, 2015 meeting.

Motion by Commissioner Lattin, seconded by Member Martinez, and unanimously carried to approve a recommendation for Town Council to APPROVE the appointment of Greg

Giles as a regular Planning Commissioner for a 4 year term beginning on July 1, 2015 and ending on July 1, 2019.

VI. <u>Planning Commission:</u> None

VII. <u>Design Review Board:</u>

Major Design Review Application Public Hearing for the Pagosa Mountain Hospital Expansion, located at 95 S. Pagosa Boulevard: Planning Director Dickhoff reported that **o**n April 1, 2014, the following individuals conducted a pre-application conference: James Dickhoff (Town Planning Director), Zach Richardson (Town Building Official), Mike Davis (Project Civil Engineer), Matt Meese (Hospital Representative), Fred Wolfe (Project Contractor) and Nick Rehnberg (Project Architect). On March 16, 2015, the Town Planning Director conducted a second pre-application conference with Mike Davis and Matt Meese at Town Hall along with Jon Tucker and Nick Rehnberg who participated via conference call, to discuss the submittal of a Major Design Review Application and a potential public hearing date of June 9, 2015, depending on the application submittal date. Also discussed was the need to include the access control plan secondary road ROW alignment in the application submittal.

Planning Director Dickhoff provided the Commission with a written report and an overview of the Land Use and Development Code Section 2.4.6 Major Design Standards, Article 3, Zoning, Article 4, Allowable Uses, Article 5, Dimensional Requirements, Article 6 Flood Damage Protection Regulations and Site Development Standards, and comments at it relates to the proposed expansion project.

On May 08, 2015, the Town Planning Department received a Major Design Review Application. The design review plan sheets were received on May 11, 2015. The planning director determined the application was substantially complete to begin plan review and initiated public hearing notifications. Outstanding documents included: property title policy; which was received on May 27, 2015.

Design Review Board June 9, 2015 public hearing notifications were as follows:

- Published public notice in the Sun Newspaper occurred on May 21, 2015.
- Town Hall posted public notice was posted on May 18, 2015.
- Neighborhood public notifications were mailed on May 18, 2015.
- Property posted public notice was posted on-site on May 22, 2015.

As of June 9, 2015, no public responses were received or voiced at the meeting The Planning Commission / Design Review Board considered the Major Design Review application, staff's

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analysis and all public comments as they relate to the Land Use Development Code and made the following motion:

Motion made by Commissioner Lattin, seconded by Commissioner Martinez and unanimously carried to APPROVE the Pagosa Springs Medical Center's Major Design Review Application submitted by the Upper San Juan Health Service District, finding the application to be in substantial compliance with the Town's adopted Land Use Development Code, contingent on the following items to be completed prior to the issuance of a building permit:

A. Submit revised illumination plan to include; foot candle levels on neighboring properties adjacent to the property line, the proposed exterior light fixture cut sheet, line of view drawings demonstrating all light sources are shield from view from off site.
B. Submit written executed agreements for shared parking, vehicular access easements, and shared sign agreements.
C. Submit Colorado State Storm Water Plan Permit
D. Provide Cast Iron Truncated domes at all sidewalk ramps associated with the public trail.
E. Provide irrigation plan or written landscaping maintenance plan.
F. Provide verification on all roof top mechanical equipment being screened from view.
G. Provide bicycle racks.
H. Move the northeast fire hydrant from the future trail alignment.
I. Provide documentation to demonstrate that all exterior light sources are completely shielded from view from off site.

VIII. <u>Public Comment</u>: None received.

IX. <u>Reports and Comments:</u>

A. Planning Commission – No report or comments.

B. Planning Department Report –Planning Department Director Dickhoff provided the following written Department Report:

<u>TOWN COUNCIL</u>: At the June 2nd Town Council Meeting:

1) Approved the second reading of ordinance 827, vacating a portion of the Rivers Edge PUD subdivision.
2) Approved a 3 year extension for the Pradera Pointe Preliminary Plan for phase one.
3) Denied a request for an addition TOD signs for the Aspen Village subdivision.
4) Denied Ordinance 828, revising the LUDC regarding Cargo Container use and placement. It was determined that Town Council will provide their comments on the proposed LUDC revisions via

email to staff before June 19th, at which time staff will review the comments and bring revised code amendments back to Town Council for consideration.

5) Approved moving forward with LUDC revisions for Electronic Message Center signs.
6) Directed staff to not proceed with vacating the remaining portion of Piedra Street adjacent to Block 50, unless an applicant submits and application for the vacation, which at that time, staff would schedule PC and TC public hearings on the vacation application.

Dickhoff reminded that Commission that the Town Council meeting agendas and minutes are available upon request and available on line at: TownOfPagosaSprings.com > Government tab > Town Council tab > select category. The next TC Meeting is on MONDAY, June 15th at 5pm. The June 18th TC meeting has been cancelled.

HISTORIC PRESERVATION BOARD (HPB): The HPB recently awarded the property owners at 480 Lewis Street and Pagosa Street for their successful completions of exterior alteration certificates and the repurposing of the properties.

200 BLOCK PAGOSA STREET SIDEWALK IMPROVEMENT PROJECT: The sidewalk project is close to completion. The contractor has a number of small items to complete. Street lights are yet to be ordered, as staff was waiting to coordinate the order with other additional street lights to save on shipping costs.

PIEDRA STREET 2015 REPAVING PROJECT: The road reconstruction project should be completed prior to fall school semester.

WALL MART: Please note that Wal-Mart has submitted an Appeals Notice, requesting the Board of Adjustments (Planning Commission Members) consider reviewing the Planning Directors determination of the Parking Lot Lights not complying with the Town's LUDC. IT IS VERY IMPORTANT THAT Board of Adjustment (BOA) members (Planning Commission), do not discuss this issue with ANYONE, as this may come before the BOA for a public Appeals Hearing. Any discussions outside of the public hearing will jeopardize the appeals process.

EAST & WEST PHASES OF TOWN TO PAGOSA LAKES COMMUTER TRAILS: Due to a staff retirement at Universal Services, our Uniform Act Specialist, we have experienced a speed bump in getting easements finalized. Staff is working the new staff member assigned to our projects to ensure we do not lose too much time in proceeding to advertisement for construction.

C. Upcoming Scheduled Town Meetings: A meeting schedule was provided to the Commissioners that included meetings, through July 2015, for the Planning Commission, Historic Preservation, Town Council and Parks and Recreation.

X. Adjournment - Upon motion duly made, the meeting adjourned at 7:25 PM.

_____
Ron Maez, Planning Commission Chair

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Town of Pagosa Springs
Planning Commission, Board of Adjustments & Design Review Board
Appeals Hearing
June 30, 2015

Town Hall, Council Chambers, 551 Hot Springs Boulevard, Pagosa Springs, Colorado 81147

I. **Call to Order / Roll Call:** Planning Commission/ Board of Adjustments Chair Ron Maez called the hearing to order at 5:30 PM. Commissioners Kathie Lattin, Peter Adams, Heidi Martinez and Natalie Woodruff were present. Also present were Planning Director James Dickhoff, Associate Planner Margaret Gallegos, Town Attorney Bob Cole (by telephone), Walmart representatives Joey Lubinski and Tasha Bolivar and approximately 12 persons.

Chair Maez provided an overview of the agenda, thanked everyone for attending and noted that first, the Board of Adjustments (BOA) will consider adopting Resolution 2015-09, which adopts procedural guidelines for the appeals hearing. The second agenda item is the actual Appeals Hearing. During the hearing, the BOA will only hear testimony from the Planning Director and the Appellant - Walmart Real Estate Trust, with time limits for each based on the adoption of Resolution 2015-09. No evidence outside of the "Documents of Record" that were provided prior to the Hearing will be allowed unless approved by the Appellant and the Planning Director.

Chair Maez stated that public comments will not be heard during the Appeals Hearing; however, written public comments received before the Walmart "Notice of Appeal" on April 2, 2015, have been included in the BOA packet for consideration. With that said, he noted that those that property owners that are within 300 feet of the subject property or have received mailed notice of the hearing can appeal the BOA's decision to Town Council. In addition, the Planning Director and the Appellant can also file an appeal. Chair Maez stated that if anyone is interested in submitting a "Notice of Appeal" regarding the BOA decision, should contact the Town Clerk for such requirements and the "Notice of Appeals" must be received by the Town Clerk within 10 days from the date of the decision making bodies' final determination.

For the purposes of conducting an orderly Appeals Hearing, Chair Maez reminded that the BOA and those providing testimony should speak clearly into the microphone. In closing, Chair Maez requested that only those recognized by the Chair may speak, to ensure no one is talking over each other.

II. **Board of Adjustments**

A. **Resolution 2015-09: A Resolution and Order Regarding Procedures Governing the Appeal by Walmart Real Estate Business trust, of the Administrative Decision of the Town Planning Department Director Regarding Parking Lot Lighting.** Pursuant to the Land Use and Development Code (LUDC) Section 2.4.13.E, Walmart Real Estate Business Trust (the "Appellant"), through its legal counsel, has submitted a "Notice of Appeal" appealing the Town Planning Director's interpretation of LUDC section 6.11.4 and the final determination regarding the non-complying nature of the parking lot lighting. The LUDC section 2.4.13.G.5 allows the establishment of procedural rules related to an Appeal Hearing. It was noted that Walmart's legal counsel has consented to the proposed language and terms set forth in in Resolution 2015-09.

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Motion made by Member Lattin, seconded by Member Martinez and unanimously carried to approve Resolution 2015-09, A Resolution and Order Regarding Procedures Governing the Appeal by Walmart Real Estate Business trust, of the Administrative Decision of the town Planning Department Director Regarding Parking Lot Lighting.

B. Appeals Hearing: Walmart Real Estate Business Trust Appealing the Town Planning Director's interpretation of Land Use Development Code section 6.11. Exterior Lighting, and his Final Determination regarding the non-complying nature of the parking lot lighting at the Walmart development located at 211 Aspen Village Drive, with possible Executive Session Pursuant to C.R.S. 24-6-402(4)(b) for the Purpose of Receiving Legal Advice regarding the Walmart Appeal Hearing.

The Board of Adjustments was provided with the following documents, labeled in coordination with its Appeals Hearing Binder tabs:

A- Documents Associated with "Notice of Appeal"
1) LUDC section 6.4.13. APPEALS
2) Notice of Appeal from Walmart, dated April 3, 2015.
3) Walmart Opening Brief, dated April 16, 2015.
4) Planning Directors Final Determination, dated March 23, 2015.
5) LUDC section 2.4.13. Appeals
6) LUDC section 6.11, Exterior Lighting.
7) Exhibit C, Appellants provided definitions of Glare
8) Exhibit D, Appellants Lighting Guidelines

B- Complaints and comments received prior to April 2, 2015 receipt of "Notice of Appeal".
1) Written Complaints received prior to April 3, 2015.

C- Index of Documents associated with Original Design Review Board (DRB) Public Hearings

D- Documents associated with May 22, 2012 DRB Public Hearing
1) May 15, 2012 Correspondence from the Planning Director to Tasha Bolivar.
2) Walmart's responses to staff and Bohannan Huston's project comments, dated May 21, 2012.
3) Walmart illumination power point presentation, dated May 22, 2012.
4) Preliminary Lighting plans dated April 4, 2012

E- Documents associated with July 10, 2012 DRB Public Hearing
1) Revised Illumination Plan Dated June 12, 2012.
2) Correspondence from Carl Schmidtlein of Galloway responding to Town review comments, dated June 21, 2012.
3) Amended Bohannan Huston review of re-submitted plans, dated July 3, 2012.

4) Walmart illumination power point presentation, dated July 10, 2012.

F- Documents associated with August 21, 2012 DRB Public Hearing
1) Walmart response to July 10, 2012 DRB meeting minutes.
2) Walmart illumination power point presentation, dated August 21, 2012.
3) The Edge LED Area Light fixture product information sheet.
4) Revised Illumination Plan Dated August 13, 2012.

G- Documents Associated with the Final DRB and Town Approvals
1) Resolution 2012-12, "Setting forth findings of fact and conclusions and approving the Walmart major Design Review Development Application".
2) Galloway response to DRB Resolution 2012-012, dated April 11, 2013.
3) Site Plan Approval from the Town, dated May 08, 2013.
4) Final approved illumination plan, dated December 18, 2012.

Planning Director James Dickhoff opened the discussions by thanking the Board for its time and the many citizens in attendance. Director Dickhoff noted that public notices were mailed and apologized for the first letter and then subsequently corrected about public comment not allowance at the meeting. He noted that he has a good working relationship with both Walmart and the architect design team and his finding has not affecting his determination and all parties continue to maintain a professional standing. Director Dickhoff stated that, through the process, plans were modified so that no foot candles would not be over the property boundaries. The Land Use and Development Code Section 6.11.4 (c) outlines the design standards adequate for safety.

Planning Director Dickhoff noted that during the plan review, the first stage was based on submitted plans. The second stage involved an onsite review by staff and final documents. During an onsite inspection, several foot candles exceeded the overage – two lights are polluting the residence across the street, visible light sources were identified in the interior – middle part of parking lot and perimeter around the sidewalk. He explained that the interior lights are not shielded which creates light sources to extend off-site. Compliance can be achieved by shielding, modified or addition of light sensor(s). Dickhoff stated that he has consistently interprets and applies the LUDC uniformly for all resident and commercial projects.

The Planning Director identified the following violations of the exterior Walmart parking lot lights: 1) The LED light sources (light bulbs or LED light boards) are not concealed or shielded to minimize diffusion on adjacent properties. Visible light sources are allowed with a motion detecting device; and 2) Foot-candle meter measurements indicate portions of the perimeter are higher than zero off-site. Director Dickhoff stated that the foot-candle levels have been approved by the Design Review Board (DRB) and physical inspection(s) is necessary to confirm compliance which is handled administratively, separate issue from the Appeals Hearing.

The Planning Director believes there are two general issues to considered by the Appeals Hearing: 1) Is the Town's Planning Directors interpretation of LUDC section 6.11 correct, regarding concealing or shielding visible light sources; and 2) If the Planning Director's Interpretation of the lighting regulations is correct, are the installed exterior lights at Walmart compliant with the LUDC section 6.11.4.

Walmart Real Estate Business Trust, represented by Attorney Joey Lubinski, thanked the Planning staff for putting together a comprehensive packet for the Board. He stated that the staff report and initial brief appear to be complete and helps to provide the history of the application. Lubinski stated that the threshold issue is that an applicant has a right to rely on the validity of the approvals which includes the major design review.

He noted that the Walmart plan review included the lighting requirements from the onset; it was not buried or glossed-over. He said that it was a repeated topic of conversation including a third party review. Power Point slides were provided in the packet for review and he pointed-out that the lighting met all the criteria, of Articles 3, 4, 5, and 6 in the LUDC, final plans were developed and Walmart obtained a permit and proceeded to build the parking lot. Mr. Lubinski contested that no conditions for the lighting were added to the Resolution and that it was added after construction was completed. He felt that staff detected the lighting issues and that it was a "re-look" at the lighting issues. He noted that his client, Walmart, expected compliance inspections with the Code and not a "fresh-look". He stated that pursuant to discussions, it was discovered that the brightness was 57 to should have been 43 so lights were swapped out to 43.

Mr. Lubinski noted that the question should be, "Did you build in accordance with the approved plans?" and he felt that it is fundamentally unfair for the Planning Department to reopen the issue based on LUDC and not the approved plans. The Resolution addressed certificates of occupancy but not lighting. He stated that ambiguity with practice becomes and unwritten rule that are inconsistent. He believes that, through the reading, Walmart has been consistent with the Code. 6.11.4 (a) – light sources crosses through the subsection, objective that is applied to the project and consistent with the Code. He noted that the fixtures do not exceed the 90 degree standard, the LUDC sentence as a whole, provided with cut-off have met the Code, as required. He noted that the objective of the code is not eliminating but minimizing. Commercial retail parking lot with 35' light poles that meet the Code and it is a subjective interpretation.

Mr. Lubinski stressed that, if there was any issues, they needed to know during the pre-construction in order to meet the Code and that the Town permits exterior lighting under Section 6.11.3 for security and security is needed for parking lots. He said that Walmart is concerned with safety and security. In 2012, raised in the presentations by Galloway, was in the presented Power Point slides. Walmart needs the parking lot adequately lit to minimize incidents for crime, vandalism and safety. It is an important component for parking lots. Black-spots are a

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real danger in lighting. A written brief was provided to the Town in April, 2015 which confirms that they are in compliance with the submitted plans.

Planning Director Dickhoff outlined that the perimeter of the parking lot meets light code; however, non-compliant lights are in northwest corner and three are bleeding over property lines. He stressed that the interior lights are non-compliant and illustrated, through a Power Point presentation, visual effects of cut-off angles at 90 degrees which align perpendicular to ground and also projected other non-compliant angles. He noted that the LUDC outlines that all lighting should be cut off not to exceed 90 degrees to minimize the potential for glare and unnecessary diffusion on adjacent properties. He stated that if the Walmart lights were cut-off less than 90 degree angle, it would resolve the glare/diffusion issues.

Director Dickhoff noted that the Planning Department supports LED lights although they do have a much more intense light source, than traditional light sources, and are more energy efficient. Director Dickhoff noted that the Department has had other compliance issues with lighting and the developers chose how they wanted to resolve the issue. Dickhoff stated that the intent of the Code is that the lights be shielded or concealed and that enforcement be consistent for all residential and commercial properties. He agreed that safety involves lighting but the lighting should not affect the neighboring properties. He explained that most all lights in Pagosa Springs are recessed and/or have a cut-off angle less than 90 to minimize the glare and unnecessary diffusion on adjacent properties. Since the adoption of the Code, other properties such as Wells Fargo, Tractor Supply Company and gas stations have meet the code by providing shielding and/or concealing.

Director Dickhoff noted that the LUDC Subsection (l) is not a subjective interpretation; it is clear about the visibility of the light. The design review is based on the LUDC and once the lights are installed, the Department must perform an onsite review to assure compliance with Section 1.6.2, subsection (a) in the LUDC, Violation, Activity Inconsistent with Code – he noted that Resolution 2012-12 does not waive the violation.

Director Dickhoff reviewed Exhibit C, as provided by Walmart, on page 8, #10b – Appendix C and his letter which outlines the non-compliance lights with visible light source. Dickhoff stated that prior to the inspection and final inspection, the Garden Center lights were installed and will be addressed separately and not a part of this appeal. The wall mounted lights were not inspected and are not a part of this appeal and final determination letter. In the Board's packets, he noted that public comments received prior to the notice of appeal. He said that other letters were received after the appeal notices and not a part of the appeal hearing. Dickhoff stated that on March 24, 2015, he expressed concern to Walmart with the glow and trespass of light and outlined in a second letter dated March 6, 2015. Dickhoff stated that the plan review was completed with a physical inspection which noted that light issues. He was reassured that the new LED light fixtures and shielding would meet the intent of the Code and the conversations were proactive to mediate issues. Dickhoff stated that the light was switched out to reduce light

intensity but the lighting still did not meet the Code as of an inspection conducted on June 29, 2015.

Director Dickhoff noted that his decision, and the positon of the Planning Department, is consistent with the interpretation since the Code's adoption in 2009. He understands that it is expensive to change lights to meet Code; however, he has a responsibility to citizens to administer and enforce the Code as written. He stated that he is responsible to ensure that development and improvements do not impact the surrounding properties.

Walmart Real Estate Business Trust Attorney Lubinski apologized for the oversight with Exhibit C inclusion and he will provide it if needed. He commented that if the issues were raised at the design phase, it would have been addressed. He stated that the lights comply with Section 6.1.2 and all the applicable standards based on Resolution 2012-12 and that any other issues should have been called out for additional information. He felt that the interpretation is an unwritten rule and his client was not made aware about during building permit. He requested that the Board reverse that finding and that they be entitled to rely on validity of approvals He noted that he absolutely acknowledges that light issues are real to the neighbors but the intent is to light a parking lot. If designed differently, it should have been raised during the application process. He respectfully requested that the Board reverse the Planning Director's interpretation.

The Board of Adjustments Questions/Comments: Member Woodruff question if shielding is different for interior and exterior lights. Ms. Bolivar noted that shielding is at a 80 degree angle, the light fixtures have eyelids that shape the way of the light and that the purpose of the light is to spread the light and a shield would cut-off the light. She noted that the light poles are 35 feet in the air and the LED light panels are visible.

Member Woodruff inquired about allowance for pole height in the LUDC and if the surrounding properties comply with the light regulations and/or are monitored for light spillage over the property, across the street and onto Highway 160. Director Dickhoff noted that the height was allowed and enforcement is uniform across the board. Dickhoff further noted that the new lighting at Walmart's Garden Center, after installation, will be reviewed for compliance. Ms. Bolivar agreed, and noted that the Garden Center is not part of the issue, only the parking lot lights.

Member Martinez asked about the Tractor Supply Store. Director Dickhoff stated that the property consists of 17 lights that are in compliance with the lighting code – they chose to install after-market appendixes. Ms. Bolivar noted that the Walmart lights do not go off – it is a 24-hour operation. She further explained that Walmart controls the light timers across the country.

Ms. Bolivar stated that if eyelids could be installed, it may stop light at property line but they would need to be "after- market" eye-lids which would be constructed and installed for light to be directed. The company would physically need to order new eyelids; however, because they

would be "after-market", they could not be put on the interior lights because it could create "dark-spots" over the parking lot that Walmart will not allow because it wants uniformity on lighting due to safety. Dickhoff noted that warranty would be voided – Bolivar agreed that if modified, it would void the warranty. Director Dickhoff stated that additional meter readings were taken from the corners of Walmart's property; they ranged from .7 fc down to 0 fc although the illumination plan showed 0 fc ratings around property.

Member Adams expressed confusion about Attorney Lubinski's statement that the lighting was not addressed during the plan review. Member Adams noted that the lighting concerns were raised by the DRB during the application process on May 15, May 21 Aug 12, and Sept 6. Attorney Lubinski explained that the lighting was reviewed and commended on by the Design Review Board (DRB) but that the appealed lighting issued were not specifically addressed or raised – the visible light source. Attorney Lubinski said that each municipality is different with some areas being straight forward while others are underlining with stand-alone. He continued to explain that, if combined, they become ambiguous. He concluded that the Pagosa Springs Code is straight forward but that prohibition is not expressly called-out. He noted that, locality; CDE may deviate from plans with a variance. The Walmart plans, page 5 - #5, site specific basis, adequacy and lighting for adjacent uses, minimum may be appropriate, Walmart and project manager should have been provided with guidance for projects. Page 8 outlines that the spill/light control less than 0.8 at 5' grade. He also noted that page 10 (e), outlined that if municipality requirement is more stringent, it must be used. In closing, Attorney Lubinski noted that the principle issue is that the policies were never addressed. Ms. Bolivar stated that the requirements met the code – shielded, concealed, need to change options unless issues were raised during the design phase.

Member Adams referenced that a letter from Galloway stated that the lighting would be on from dust to dawn but was not sure. Ms. Bolivar stated that the hours of illumination are for 24-hours.

Member Martinez asked if it is feasible to install 35 foot poles without light visibility. Director Dickhoff responded that, yes it is feasible but not with HID or LED lighting, shielding must be used for compliance.

Member Woodruff stated that the Town Code outlines that lighting "shall" be shielded, and the applicants guarantee during the time of application that shielding would be addressed and she understood that the lighting would be compliant with Code. Ms. Bolivar explained that Code, section 6.11.4, addresses a 90 degree shielded and the Walmart interior lights are at 80 degrees. Ms. Bolivar and Attorney Lubinski both said that they understood that the inspection would verify that the lights were installed to the plans and comply with plans. Member Adams commented that the material may be in compliance but the lighting effect was not addressed. Ms. Bolivar understood that inspections would ensure, but expected that the inspections are to address that the plans were complete. Attorney Lubinski said that he interprets that the installed shielding meets the requirement and standard of the Code.

Member Lattin commented that that there are three major items to consider, the corner lights are correct, internal parking lot lights meet the 90 degree or less shielding, and review that the applicant submitted an application that outlined that the foot candles would remain on site. Lattin stated that the foot candles and visible light are different. Director Dickhoff outlined that the staff contents that the light standards do not meet LUDC 6.11.4, sections A, B, C, J, and L and are not in compliance as outlined in Resolution 2012-12, specific to subsection C – prohibits lighting from adding any foot-candles illumination to any location off-site.

Chair Maez asked each party to provide its interpretation of recessed lighting – Director Dickhoff said that the level of the lighting with housing would meet the 90 degree angle but if it is above the fixture, it would not meet shielding. Ms. Bolivar noted that the LED light board are flush – interpretation it that it is fully shielded and further explained that concealed and shielded are two different issues. Chair Maez asked if there is an opinion to screen and/or shield, would it be impossible at 35 feet or would it be seen because of height. Director Dickhoff commented that the performance of light is not meeting the Code; it meets Walmart safety requirements but does not perform to the LUDC. Ms. Bolivar said that the performance can be measured in foot candles (fc).

Member Adams commented that that LED lighting is defused into the air but not into ground, it is a massive explosion above the light source itself. The Walmart lighting is glaring and diffusion is not down lite. No additional comments were received.

Motion made by Member Lattin, seconded by Member Woodruff, and unanimously carried to convene into Executive Session pursuant to C.R.S. 24-6-402 (4)(b) for the purpose of receiving legal advice regarding the Walmart Appeal Hearing.

X. **Executive Session** - Upon motion duly made, the regular meeting adjourned at 7:53 PM and convened into Executive Session at 7:56 PM. The Board reconvened into regular session at 9:05 PM and requested further clarification from the Planning Director and Appellant on the following topics:

1. Light beams
2. Light source
3. Glare or unnecessary diffusion
4. Do you believe if there is a performance standard?

Director Dickhoff stated that light beams are interpreted as the line in which the light travels from the light source to the ground. Light Source would be the actual bulb, led, light board and/or the actual devise that is emitting the light source such as LED board and tradition light. Light glare or unnecessary diffusion – glare is the visual and actual light source; diffusion is could be the different between two light sources such as 15 watt vs 1500 watts– it is the actual

visibility of the light source. He explained that glare is a nuisance or obtrusive effect, such as seeing a light bulb and the light pollution to other properties. Performance standard, not physically listed in the LUDC but it is implied within the Code that it requires inspection and construction compliance.

Ms. Bolivar explained that light beam is directional light intended to light such as a flood light pointed directly at an object. For light source, she did not disagree with Director Dickhoff, but noted that the LED have dynodes that create light that shines. She commented that glare is a subjective term to each person, it is different. Attorney Lubinski said that definitions are included in the meeting packets but definitions are not defined in LUDC. He stated that it is some sort of direct light that causes striking light or dazzling. Ms. Bolivar said that unnecessary diffusion provides light for safety and that performance standards can be measured by foot candles from property line. Attorney Lubinski stated that lighting performance is the objective test such as the foot candles and cut-off and inspections. He noted that the disagreements are about inspections by Code alone or performance with plans per the Code.

Chair Maez noted that, after an onsite review of the interior lights, he did not see any obtrusive glare, as far as LUDC, performance is an issue and needs to be resolved one way or another. He stated that for both sides, the LUDC leaves room for question.

Member Woodruff asked about excessive diffusion - is there a way to measure and reduce the light and adhere to safety rules? Is there a way to determine? Ms. Bolivar stated that lights meet Walmart's uniformity standards. Woodruff further questioned, if the lights can be modified to have less overlapping to accomplish goal of Walmart? Can excess be measured? Ms. Bolivar said that the only measurement is for foot candles on the ground and to know about a total site standpoint, there is no way to measure the overlap.

Member Adams stated that security is needed; however, he questioned if the lighting could be toned-down without an explosion of light. Ms. Bolivar said that the designers are better with the lighting plans and they would know where the lights need to be, including the overlaps with uniform light. She noted that dimmers must be pre-manufactured and installed with each fixture.

Member Woodruff asked Director Dickhoff about what aspect(s) are they not in compliance. Dickhoff stated that the light sources are visible off-site, the light beam is illuminated beyond the property line, and the interior parking lots have an intense glare. He commended that the manufacture may be able to shield the light in order to stop the beam from crossing line. Non-compliance is specific to LUDC, Section 6.11.4 A and L; however, when compared to the perimeter lights – they are not visible to have a backlit shield within fixture.

Member Adams asked if the appellants felt that they are complying with the light regulations. Ms. Bolivar sated that the defused light is not able to be measured. Member Martinez asked if there are any foot candles that protrude past the property line. Director Dickhoff stated that there

is .4 (point four) temperature lights outside the property line and the eyelids were rotated incorrectly; however, he noted that it was difficult to measure with all the lights being on at the same time. Ms. Bolivar said that a modeling program can turn off one light but the lights cannot physically be turned-off one at a time on site. She stated that there are foot candles at .1 (point one) at the Walmart entrances as certified by the manufacture. She further stated that eyelid and light pointing need to be addressed.

Member Adams questioned LUDC 6.11.4 as outlined in the legal brief. Director Dickhoff noted that the foot candles can be measured and the meter light source can be seen with human eye. The lights are very obtrusive and LED intensity. He commended that seeing the light source is not subjective. There is a reflection from the light hood and light source. In closing, he noted that there are two definite measurements in the field, meter measurements for the foot candles and human-eye for viewing the light source.

There being no further questions, the Board of Appeals took the following action(s):

Member Woodruff motion to continue the Appeals Hearing for July 21, 2015 at 5:30 PM in the Town Hall to further consider the Appeal and a final determination which will allow the Board time to see the light source from the adjoining sidewalk with the Lighting Model presented by the appellants so that the lights can be turned on and off with the Board conducting a site visit before the meeting date to view the light source and further that the Exhibit Model will show foot candles. **Motion failed** for lack of a second to the motion. Attorney Cole noted that the Board can meet at a group on site to observe but may not discuss among themselves or discuss with staff or appellants.

Chairman Maez stated that the Board must determine whether Walmart is in violation of the LUDC Section 6.11 Exterior Lighting and the Planning Director's determination. Motion made by Chair Maez, seconded by Member Adams that the Board of Adjustments deny the Walmart Appeal of the Planning Director's Determination, and find that the Director's interpretation of the intent of the Land Use Code, Section 6.11.4.A. and J. is correct regarding the requirements for concealing or shielding light sources so as to the subject property and away from nearby properties and vision of passing motorist, and to minimize glare and unnecessary diffusion on adjacent properties. **Motion failed** – two- Maez and Adams in favor with three - Martinez, Lattin and Woodruff opposed.

Motion made by Member Martinez, seconded by Member Woodruff, and unanimously carried to continue the Appeals Hearing to July 21, 2015 at 5:30 PM in the Town Hall to further consider the Appeal and, prior to that date, if not already done, all Board members should conduct an onsite visit.

The meeting adjourned at 9:57 PM.

_____
Ron Maez, Chair
Planning Commission/Board of Adjustments

AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV.2

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: MAY 2015 SALES TAX REVENUE REPORT
ACTION: DISCUSSION AND POSSIBLE ACTION

CURRENT MONTH SALES TAX & LODGERS TAX REVENUE

This report represents the report for May 2015 for sales tax and the revenue showed a good increase of **+20.9%** compared to May 2014. Total sales revenue for May 2015 for the Town was $321,291, with that divided equally between the General Fund and the Capital Improvement Fund ($160,646 going to each). In May 2014, the total amount received was $265,652. The 2015 May sales tax received is $55,639 higher than in 2014. In addition, May 2015 represents the first full month of sales tax being received from Wal-Mart.

On a "year to date" basis for both the County and Town (January thru May), 2015 sales tax is $488,015 (19.7%) ahead of 2014. However, part of that "year to date" increase includes significant collections (about $219,067), related to back taxes, mostly from 2014 and 2013. With those amounts factored out, the increase in sales tax collections was about $268,948, which translates into a real growth rate of approximately 10.9% during 2015. For comparison, in 2014 the growth rate was approximately 7%.

Last, the State Department of Revenue continues to remit to the County instead of directly to the Town. We're told that should end "soon." In a recent meeting with a representative with the State Department of Revenue, it was indicated it should end in August 2015.

Lodgers' Tax is covered separately in the report given by Jennie Green, Executive Director of the Town Tourism Commission.

Compared to 2015 Budget
The sales tax projection for the adopted 2015 budget is a total of $3,791,242 or $1,895,621 each for the General Fund and the Capital Improvement Fund, and represents a 6% increase over the year end for 2014. The month of May 2015 yielded $160,646 for the General Fund and exactly the same amount for the Capital Improvement Fund. Premised upon the 10 year monthly average, the expectation is the Town should have received in March for each Fund about $138,380. The variance is $22,266 or 16% higher than budget. Year to date, we are ahead of budget by approximately $96,434, or 15% ahead of budget. This information is true for the Capital Fund as well. For more detail, please see Exhibit A.

ANALYSIS

Resolution 2015-01 mandates 2015 expenditure reductions if sales tax revenues decline from the average revenue of the past two years. The application of the Resolution requires a monthly analysis that averages several months/years of revenue, to smooth out the impact of significant swings in sales tax collections:

	2013	2014	Avg.	2015	% Change
March	266,110	293,377	279,744	317,594	**+13.53%**

April	201,856	217,095	209,476	259,478	**+23.9%**
May	252,306	265,652	258,979	321,291	**+24.1%**

The average sales tax collections over the past two months is positive [**24.1% + 23.9%)/**2 = **+24%**]. The average sales tax collections over the past three months is positive [**23.9% + 13.53% + 24.1%)/**3 = **+20.51%)** Application of paragraphs 5 and 5(b) of the Council's policy calls for **NO** reduction of budgeted expenditures since the reduction is not more than 5%

ATTACHMENT(S)

Exhibit A

RECOMMENDATION

Informational, no action required.

Town of Pagosa Springs
2015 Sales Tax Estimate
General Fund

Month	2015 Estimated	2015 Actual	Variance	10 Year Ave. % Collection	Percent Above Budget
January	127,007	155,088	28,081	6.7%	22%
February	121,320	136,674	15,354	6.4%	13%
March	140,276	158,798	18,522	7.4%	13%
April	117,529	129,739	12,210	6.2%	10%
May	138,380	160,646	22,266	7.3%	16%
June	178,188			9.4%	
July	231,266			12.2%	
August	178,188			9.4%	
September	180,084			9.5%	
October	155,441			8.2%	
November	140,276			7.4%	
December	187,666			9.9%	
TOTAL	**1,895,621**	**740,945**	**96,434**	**100.0%**	
Percent Ahead of Estimate	15%				

AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV.3

PAGOSA SPRINGS TOWN COUNCIL
JUNE 23RD, 2015

JENNIFER GREEN
DIRECTOR, PAGOSA SPRINGS AREA TOURISM BOARD

PROJECT: LODGING TAX UPDATE
ACTION: UPDATE AND DISCUSSION

TOURISM BOARD MEETING ACTIVITY

The Tourism Board held its July meeting on Monday, July 13th at 4pm at the Visitor Center. The meeting was rescheduled due to Director's travel to DMAI conference. Draft minutes have been included for review. The August meeting is scheduled for Tuesday, August 11th at 4pm at the visitor center.

NEW CHARTS

Included in the packet is a new collection of graphs reflecting many of the data points regularly reported, such as lodging tax collections by month, collections by property type, visitor center traffic by month, traffic by day, lead collections by month and by source. These charts will be included in monthly packets moving forward and will evolve as data collection allows.

LODGERS TAX FINANCIAL REPORT

The most recent lodging tax report has been included for review. March was flat, with a modest increase in April and May. Overall, 2015 reflects a .78% decrease over 2014 collections, or $1,347.16. A new area of tracking indicates the breakdown by type of property. In May, vacation rentals and property management companies comprise 11% of total collection, cabins / campgrounds almost 6% and hotels / motels represented 83% of total collections.

VISITOR CENTER UPDATE

Visitor Center Traffic has been reviewed by day. The most visitors in one day was Fri, July 3rd. However, the 4th was a Saturday and the VC was open from 9-3 versus 9-5. Hourly average visitors shows that 4th of July saw an average of 104 visitors per hour, whereas July 3rd saw an average of 91 visitors per hour. The assumption of Chamber and meeting traffic at 10% is flawed, based on June's traffic. Traffic to the visitor center nearly doubled from May to June, with over 12,000 people coming through the door in June. A flat % assumption would indicate that meeting traffic skyrocketed as well, which is not accurate. Director will work with Chamber staff to determine a daily average of visitors to the Chamber.

Currently, average daily traffic to the visitor center is between 500 - 600. Since we began tracking via door counters in mid-February, over 38,000 people have come through the doors.

SOCIAL MEDIA UPDATE

- Facebook - www.facebook.com/visitpagosasprings Facebook: 10,865 fans
- Instagram - www.instagram.com/visitpagosa: 1,264 followers
- Twitter - www.twitter.com/visitpagosa - 873 followers

Marketing Updates

- New video captured - through advertising program with Miles, hosted two videographers June 15th & 16th - fabulous weather and brilliant blue skies - captured incredible footage of treasure falls, scenic overlook, stand up paddleboarding, aerial footage from hot air balloon, additional fishing, scenic drives, family hiking, biking across 6th street bridge with rafters and mountains and hot springs in backdrop - summer footage is mostly complete- with tubing / floating the missing piece
- Recent media coverage / PR Activity:
  - Outside Magazine featuring Pagosa Springs in upcoming article on Best Towns in America article - provided photos and fact checked article
  - Feature in 5280 Magazine in the Sept travel issue - provided photos and fact checked
  - Interviewed for Colorado Business Magazine
  - Feature in Winter issue of Encompass Magazine - should feature skiing, theatre productions, winter Chimney Rock hike, train ride, etc. Unfortunately, when writer was hosted last winter, they could not tube, ice skate, snowshoe or cross country ski during visit.
  - Hosted Charlie Jung on 7/15; South Korean journalist - he went to Chimney Rock, tubed and soaked; Director met Charlie during IPW in Orlando
  - Hosting Keidi Kerr-Schlaefer (event-focused freelance writer / social media guru) July 31st- Aug 2nd - she will check out County Fair and Cowboy Fast Draw, plus various activities over the weekend

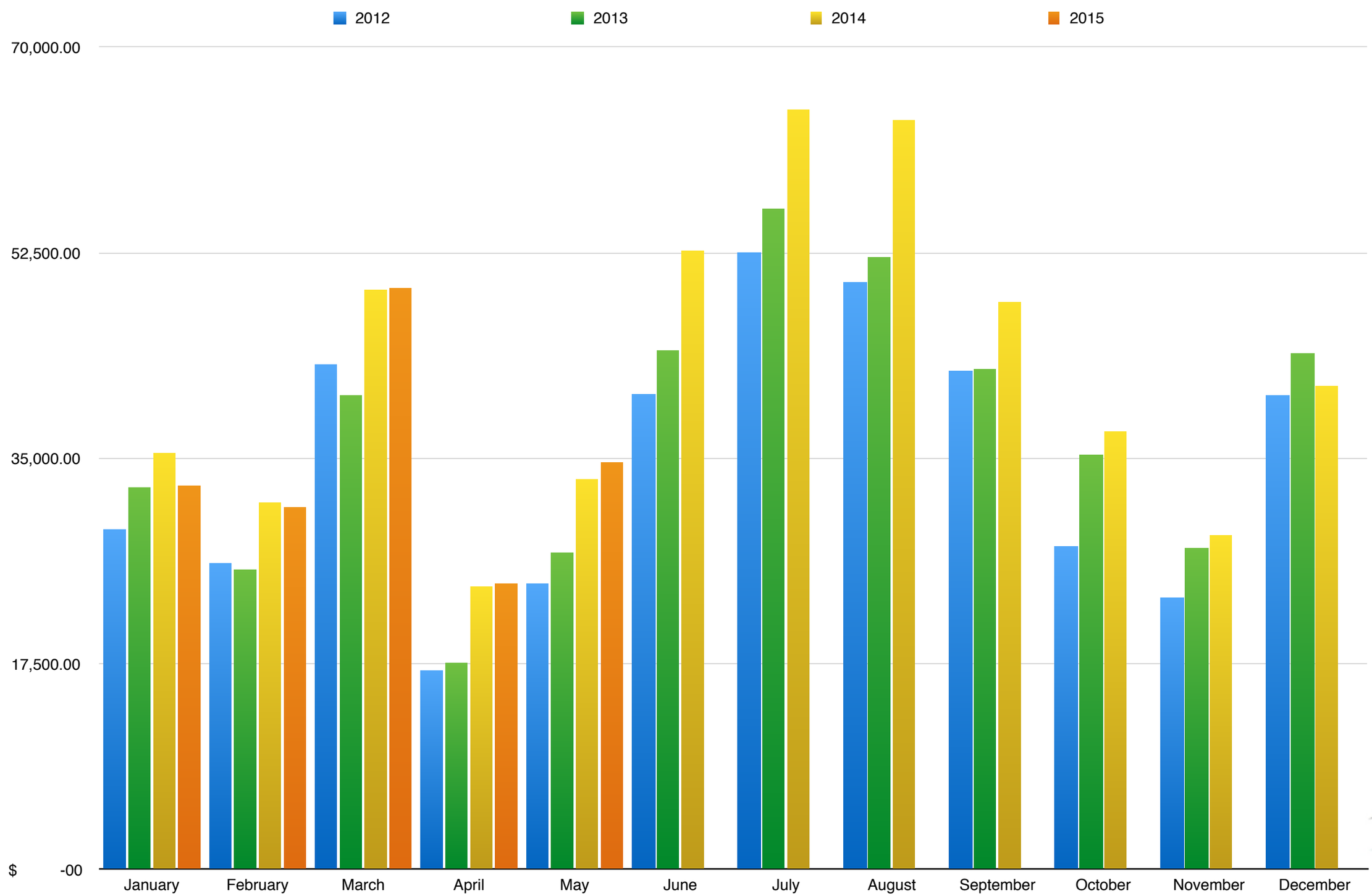
Group Travel

- Hosting Great Canadian Holidays & Coaches for site visit on July 17th; interested in including Pagosa in bus tour itinerary for September 2016 package - she is staying at Springs Resort and will receive property tours of Quality Inn and Pagosa Lodge (to be considered once renovations complete) and various restaurants.

Miscellaneous

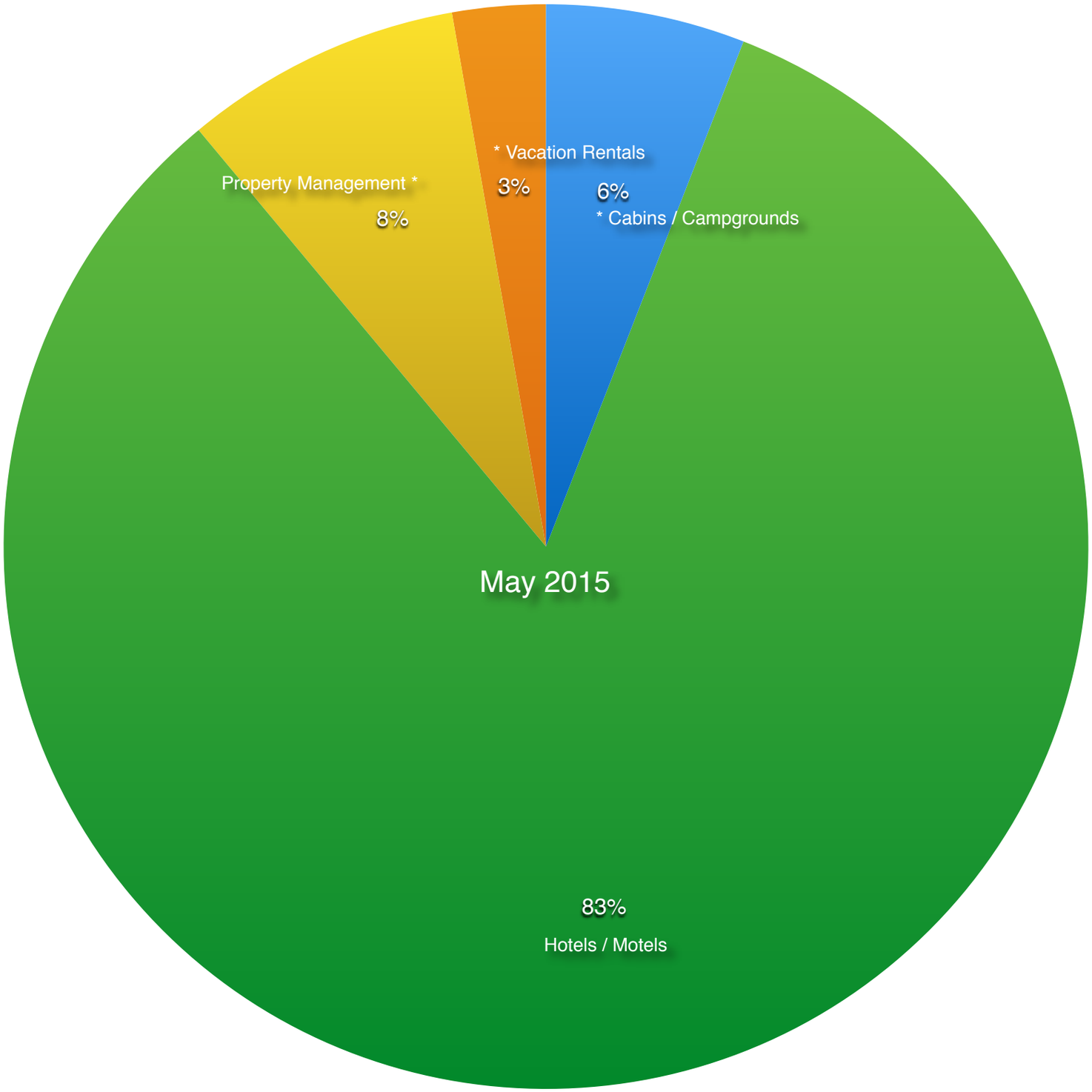
- CADMO Meeting- June 17th & 18th - hosted CADMO members for 2 day meeting; over 20 destinations attended (Durango, Vail, Breckenridge, Steamboat, Ft Collins, Denver, Loveland, Estes Park, Greeley, Longmont, Ouray, etc) The group thoroughly enjoyed Pagosa and many of the attendees made a weekend (with spouses) out of the visit.
- DMAI conference (Destination Marketing Association International) - Director attending conference July 15th - 17th; educational conference to learn about best practices and emerging trends in promoting destinations - over 1500 attendees representing various destinations - most of CADMO members also in attendance
- LA Japanese Sales Mission - organized by CTO Japanese rep - TTC Director attending August 13th; partnering with Durango (DATO) on giveaway

Collections by Month (2012 - 2015)



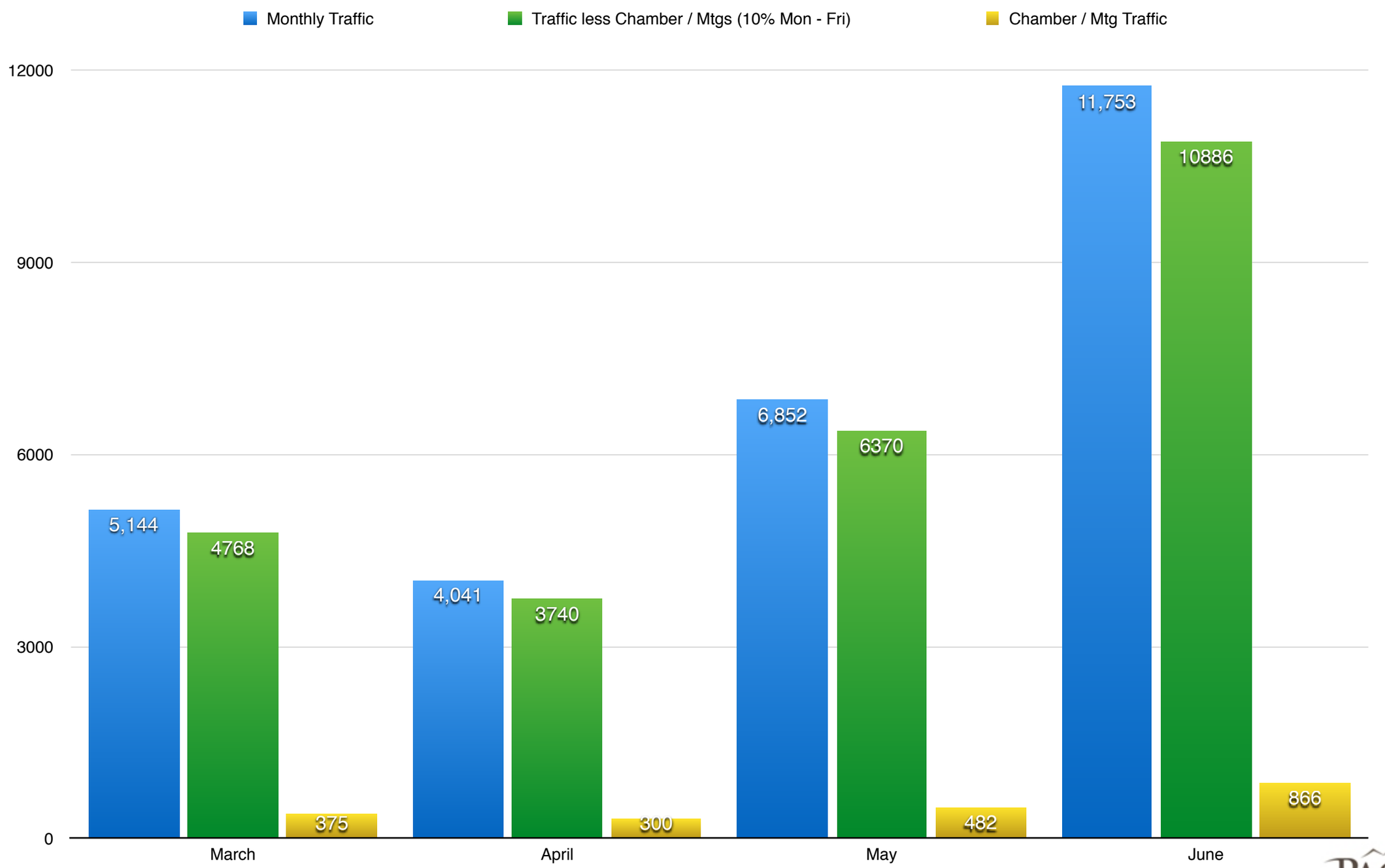
PAGOSA SPRINGS COLORADO

Collections by Property Type

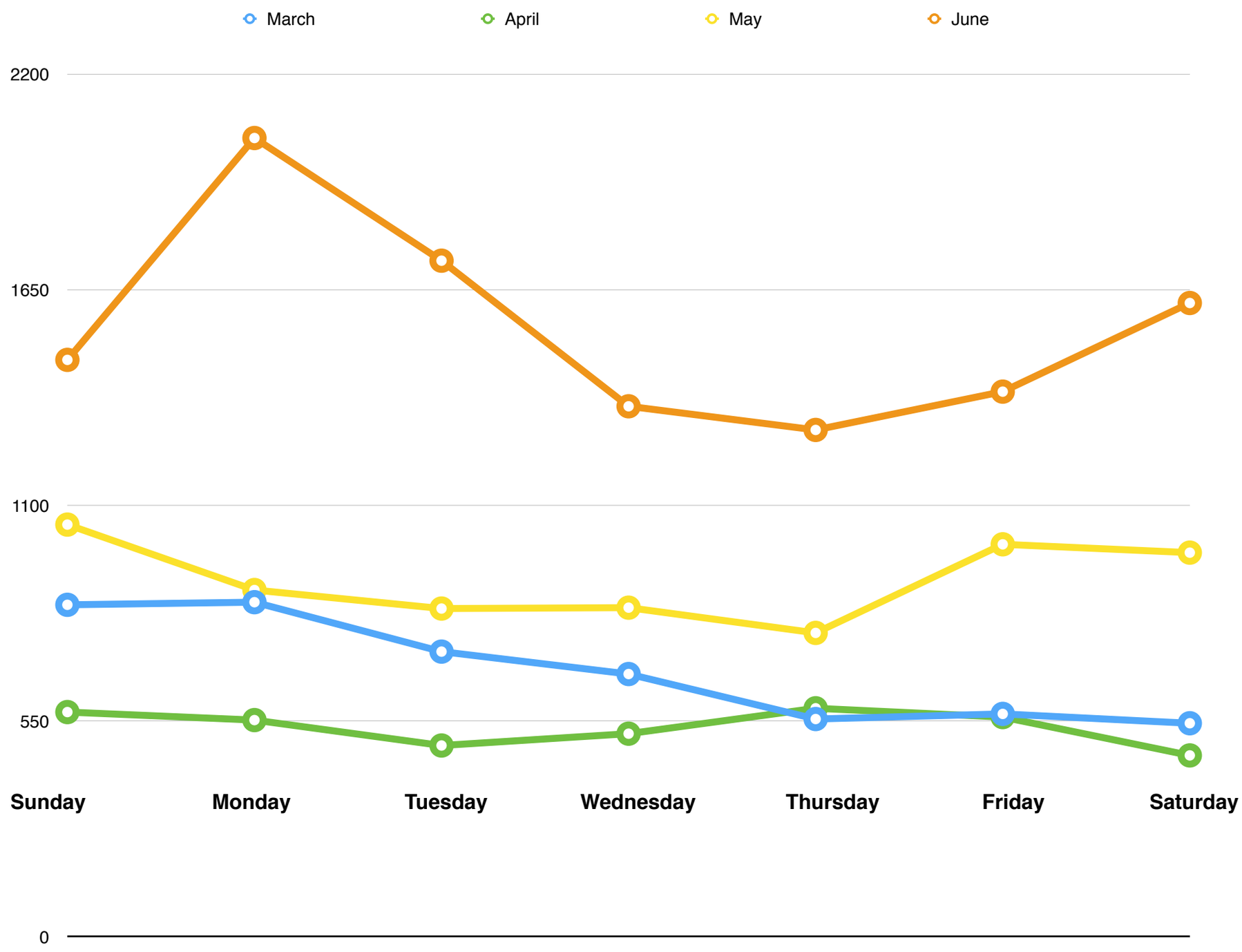


PAGOSA SPRINGS COLORADO

Visitor Center Traffic

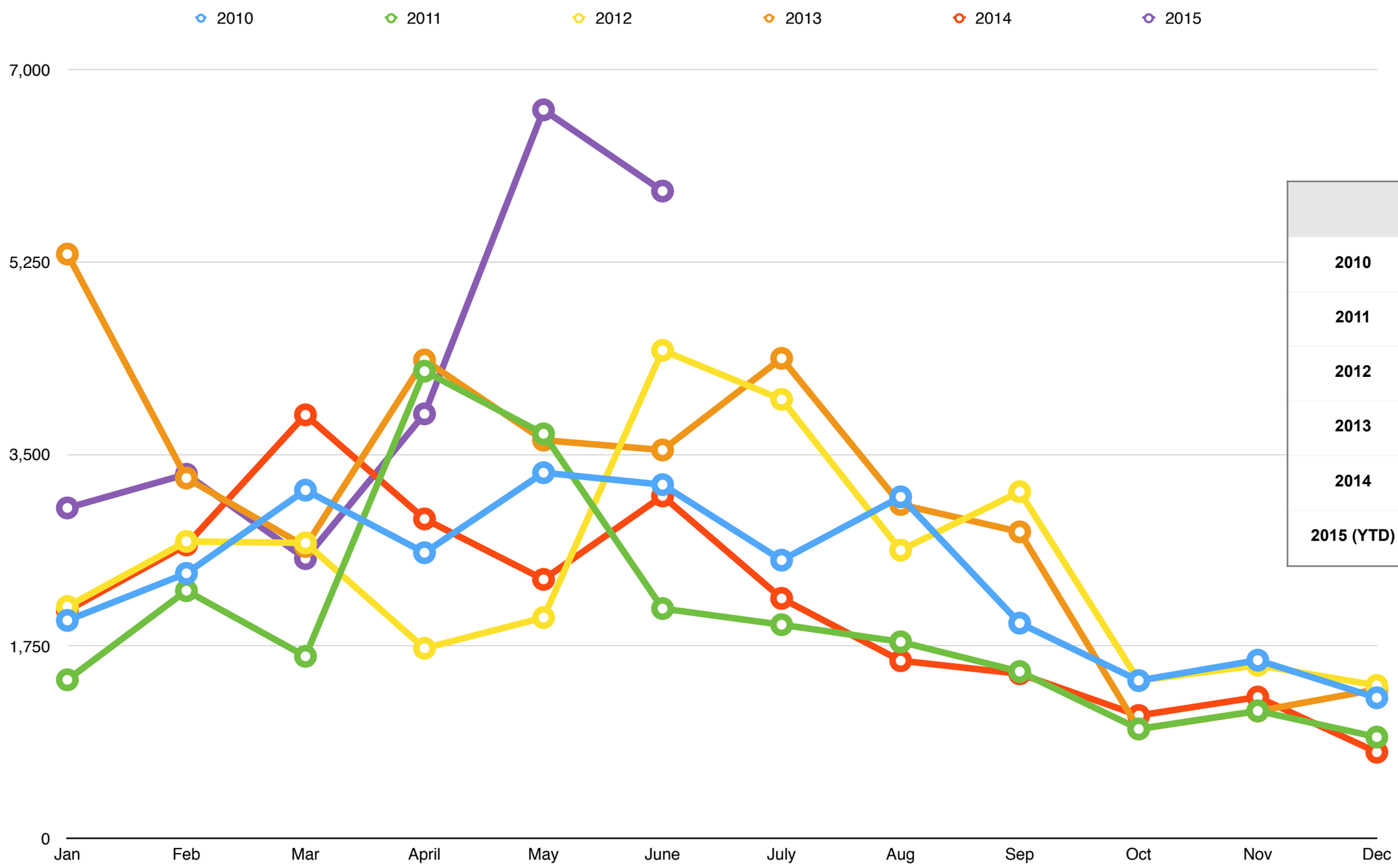


Monthly VC Traffic by Day



PAGOSA SPRINGS COLORADO

Lead Collection by Month



	Total Leads
2010	28,659
2011	23,714
2012	29,871
2013	36,493
2014	25,475
2015 (YTD)	25,270

PAGOSA SPRINGS COLORADO

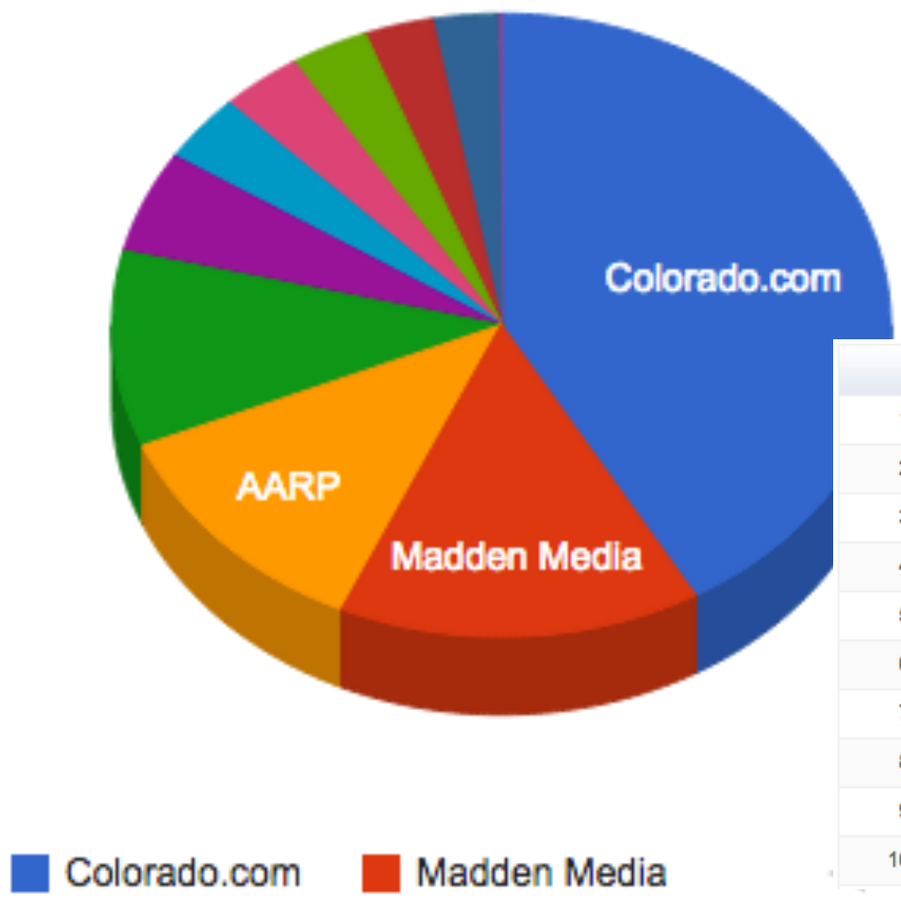
Total Lead Collection by Month

	Jan	Feb	Mar	April	May	June	July	Aug	Sep	Oct	Nov	Dec	Total
2010	1984	2413	3171	2601	3330	3221	2533	3110	1959	1436	1622	1279	28,659
2011	1443	2255	1657	4255	3684	2092	1945	1789	1518	995	1160	921	23,714
2012	2111	2704	2690	1730	2010	4445	3998	2624	3157	1435	1575	1392	29,871
2013	5322	3281	2658	4357	3626	3537	4372	3040	2791	995	1158	1356	36,493
2014	2,074	2,672	3,857	2,909	2,358	3,118	2,185	1,617	1,498	1,118	1286	783	25,475
2015	3,009	3,316	2,547	3,866	6,636	5,896							25,270

PAGOSA SPRINGS COLORADO

Top Lead Sources

Lead Sources

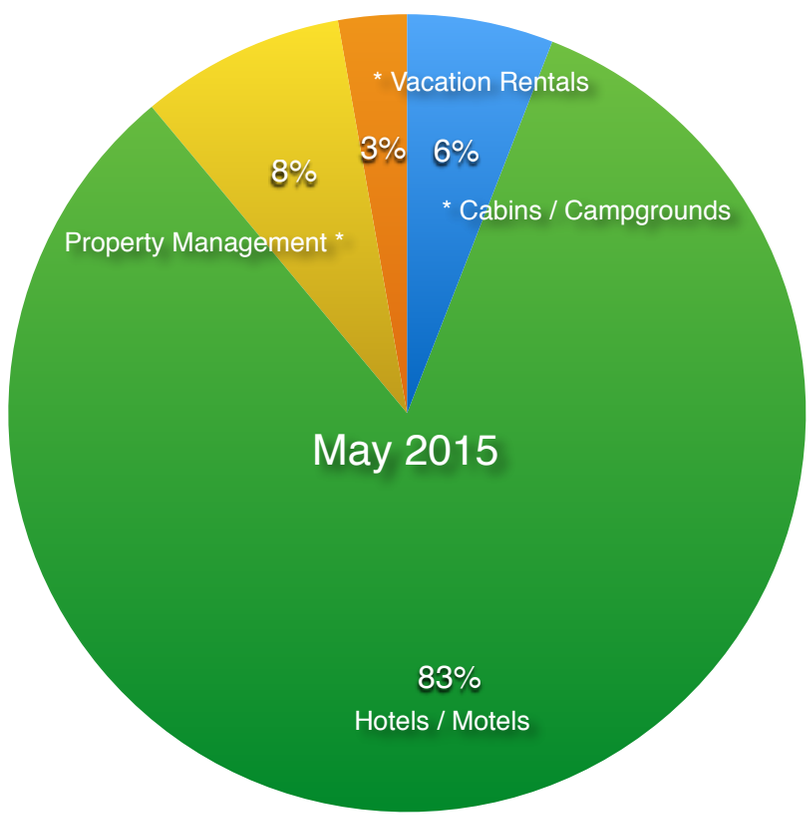


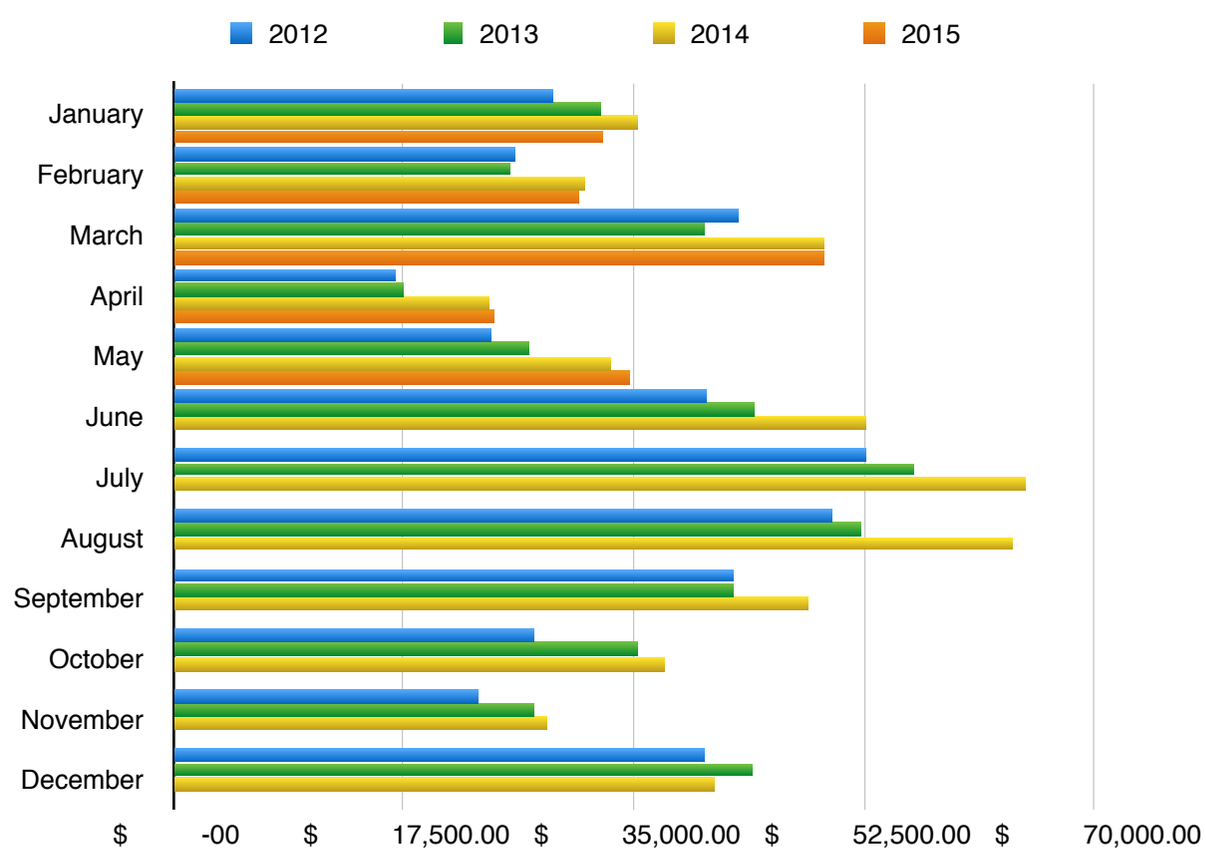
	Source	Count	percentage
1	Colorado.com	10,891	41.7
2	Madden Media	3,922	15.0
3	AARP	3,118	11.9
4	Visitor Guide Request	2,655	10.2
5	MyGrandCanyon.com	1,385	5.3
6	COSVG	922	3.5
7	Grand Circle	883	3.4
8	Pagosa.com	849	3.3
9	MyRockyMountainPark.com	744	2.8
10	Go-Colorado.com	704	2.7

PAGOSA SPRINGS COLORADO

Town of Pagosa Springs Monthly Lodgers Tax Collections											
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2015 % Change vs 2014	2015 % Change since 2007
January	$ 22,904.43	$ 23,544.00	$ 24,228.00	$ 27,295.00	$ 26,943.65	$ 28,916.00	$32,499.75	**$35,389.65**	$32,646.65	-7.75%	42.53%
February	$ 20,543.13	$ 17,002.00	$ 19,360.78	$ 21,960.24	$ 21,824.65	$ 26,003.00	$25,510.87	**$31,222.00**	$30,773.00	-1.44%	49.80%
March	$ 33,516.00	$ 31,216.00	$ 29,925.00	$ 34,928.74	$ 37,350.40	$ 43,034.00	$40,383.00	$49,398.65	**$49,468.33**	0.14%	47.60%
April	$ 15,879.04	$ 12,500.00	$ 15,186.00	$ 15,765.00	$ 16,830.71	$ 16,911.65	$17,607.00	$24,063.75	**$24,380.91**	1.32%	53.54%
May	$ 20,590.00	$ 19,276.00	$ 21,949.00	$ 21,049.00	$ 21,758.00	$ 24,283.00	$26,942.73	$33,230.00	**$34,688.00**	4.39%	68.47%
June	$ 31,803.61	$ 29,041.00	$ 32,622.11	$ 37,539.26	$ 36,091.00	$ 40,508.45	$44,148.14	**$52,611.00**			
July	$ 43,728.00	$ 44,693.00	$ 50,124.71	$ 51,931.50	$ 57,316.65	$ 52,571.99	$56,190.71	**$64,680.65**			
August	$ 35,610.05	$ 38,092.00	$ 42,307.85	$ 41,714.00	$ 44,944.49	$ 49,948.65	$52,182.92	**$63,774.65**			
September	$ 36,500.00	$ 32,363.75	$ 35,610.05	$ 41,333.05	$ 44,019.85	$ 42,499.79	$42,615.00	**$48,243.80**			
October	$ 25,264.55	$ 22,041.46	$ 25,764.55	$ 28,857.93	$ 30,661.54	$ 27,482.50	$35,281.65	**$37,303.65**			
November	$ 14,866.00	$ 16,232.00	$ 19,815.65	$ 21,348.00	$ 27,542.05	$ 23,180.44	$27,340.00	**$28,446.00**			
December	$ 31,652.00	$ 31,934.69	$ 35,456.65	$ 40,197.65	$ 41,931.00	$ 40,345.00	**$43,900.00**	$41,094.00			
Total	$332,856.81	$317,935.90	$352,350.35	$383,919.37	$407,213.99	$415,684.47	$444,601.77	$509,457.80	$171,956.89		
$$ Difference (over previous year)		$(14,920.91)	$ 34,414.45	$ 31,569.02	$ 23,294.62	$ 8,470.48	$28,917.30	$64,856.03	($1,347.16)		
% Difference		-4.48%	10.82%	8.96%	6.07%	2.08%	6.96%	14.59%	-0.78%		

	May 2015	% Total
Cabin / Campground	2058	5.93%
Hotel / Motel	28792	83.00%
Property Management	2874	8.29%
Vacation Rental	964	2.78%
Total	34688	





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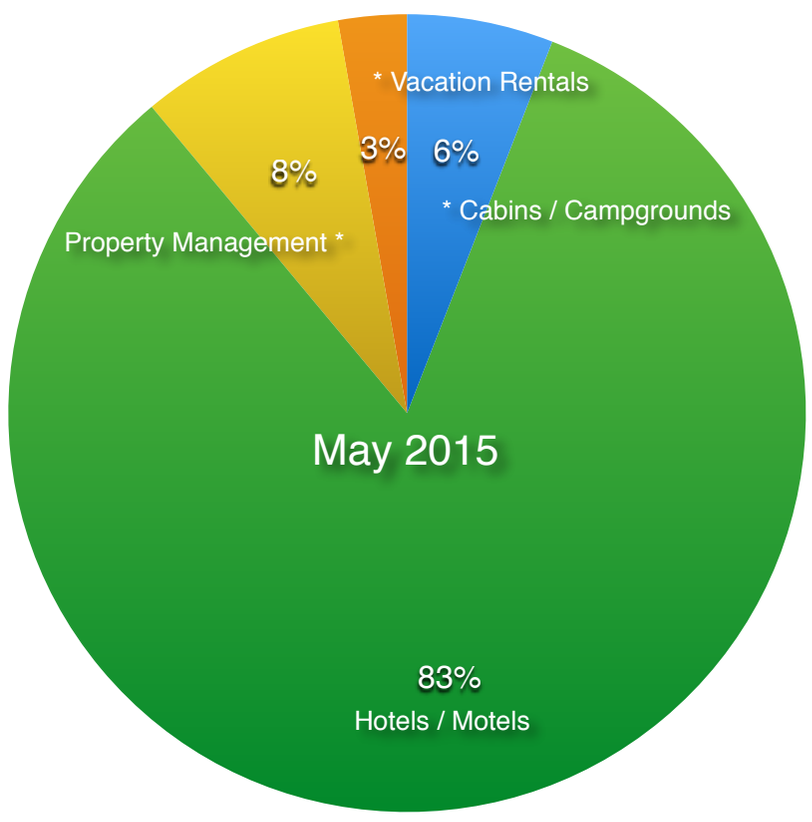

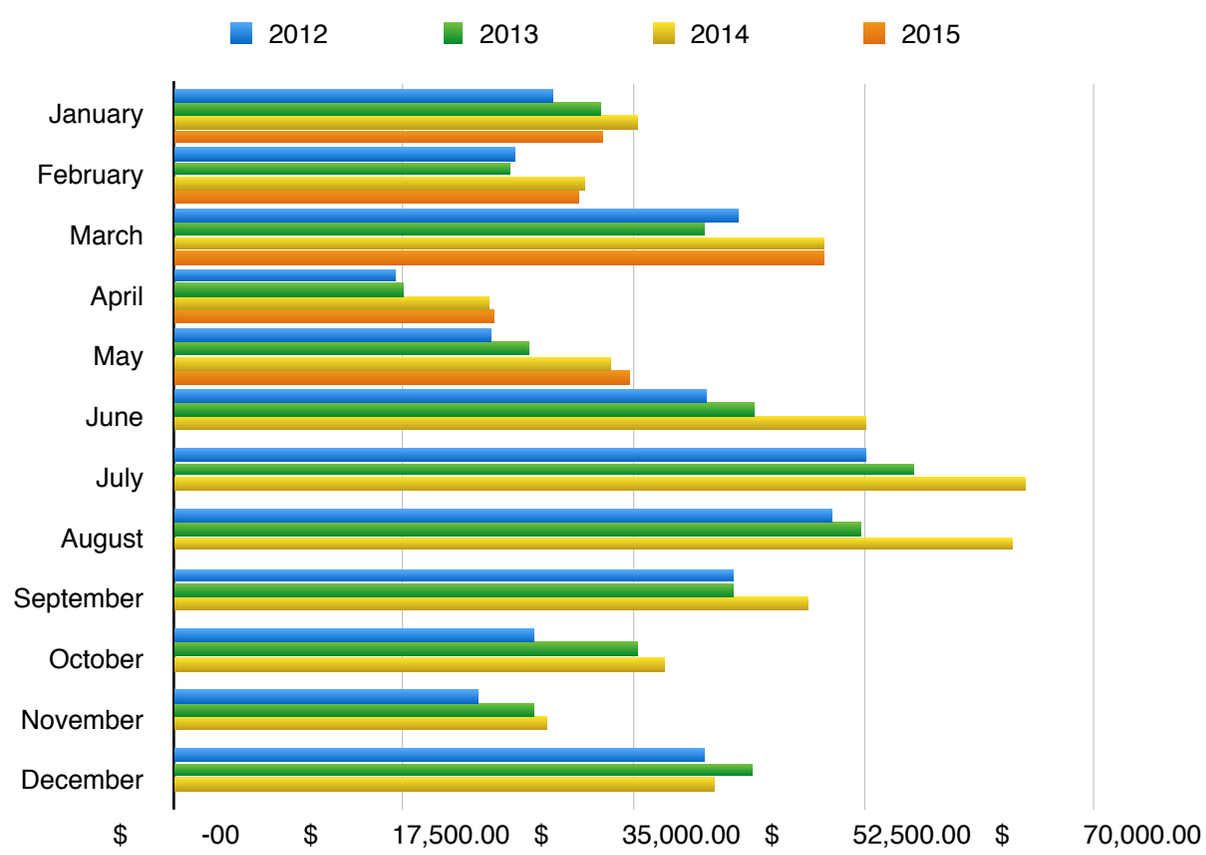

DRAFT Minutes

Pagosa Springs Area Tourism Board

Monday, July 13th, 2015

Pagosa Springs Visitor Center

3 pm

Meeting called by: Chirag Patel

Attendees: Voting Members; Chirag Patel, Larry Fisher, Stephen Durham, Nick Tallent, Steve McKain, Matt Sprowls, Criselda Montoya, Steve Wadley

Absences: Jon Johnson, Bob Kudelski

Non Voting Attendees; Jennifer Green

Please review: June Meeting Minutes

Please bring: Agenda, Committee reports

1. Call to Order – Meeting called to order at 3:04pm
2. Determination Of Quorum (6)
3. Approval of Minutes – June
    a. Steve McKain motioned to approve, Stephen Durham, all approved
4. Chair Report – Chirag K. Patel
    a. Honoring Bob Hand's Service to Community
        i. Per Board's discussion during June meeting, Jennie reached out to Scott Hand, Bob's son, to explain the recommendation by the Tourism Board to honor Bob Hand's service to the community with a plaque and dedication ceremony. Scott was very pleased with the diligence to recognize his Father's service and appreciated the gesture. He will assist Tourism Director with information for plaque and plans to attend the dedication ceremony.
5. Tourism Director Report – Jennie Green

a. Video update - recently hosted videographer through advertising program with Miles - captured great footage to fill in holes of

b. DMAI Overview

c. LA Japanese Sales Mission

6. Treasurers Report - Stephen Durham

a. Monthly Town Lodging Receipts report - Update

b. Current finances

7. Subcommittee Reports

a. Budget - Update provided by Jennie Green

b. Fulfillment

c. Marketing - Chirag Patel

i. Trade Show participation / sponsorships

1. Jennie provided overview of requests, all promote Pagosa Springs, in addition to their business / non profit, when attending events - one request from a non-profit looking for a donation to place logo on banner; another from a fishing guide that requested travel expenses to present to fishing / outdoor clubs in Southern Texas and the third request from a local business that wanted the tourism board to order picnic blankets as giveaways - at $10-$15 per item

a. Group discussed various requests; Larry Fisher indicated he had been attending trade shows for over 30 years

b. Criselda Montoya explained that reselling timeshares does not mean the purchasing party will use their timeshares in Pagosa in the future - as there are Wyndham's all over

2. According to Steve Wadley, using government dollars to advance individual businesses is a recipe for disaster

3. Larry Fisher motioned to not partner financially with private businesses and non-profits to promote their business / group at trade shows or assist with their operating expenses; Matt Sprowls seconded; discussion continued

a. Stephen Durham voiced his concern regarding setting a policy that wouldn't allow good people or groups from attaining funds to attend trade shows; group discussed and determined there

were other ways, such as providing booth at no charge, to assist businesses / groups with trade shows

b. Motion on table, CK Patel called for a vote, all approved.

c. Group determined to leave door open for infrastructure requests

d. Events & Events Infrastructure – Larry Fisher

i. No update

e. Wayfinding and Signage - Steve McKain / Jon Johnson

i. Update on 2015-2016 projects

1. Banners for Hot Springs Blvd have been ordered; new banners for river overlook ordered

2. Area landscapers have been contacted to invite them to bid on east side gateway sign with 3 year maintenance agreement; Director will email solicitation for bid to Board

ii. Rock wall around visitor center sign

1. Steve McKain explained project to group and that he had solicited bid from a local vendor that he has worked with for rock work

2. Rebuild rock wall and add footers using new rocks - $2,500; a reduction of $300 to use pre-existing rock

3. Stephen Durham motioned to have rock wall rebuilt around visitor center sign using new rock and work with vendor Steve McKain located, Steve Wadley seconded, all approved

g. Visitor Center Subcommittee

i. Director provided overview of new charts provided with meeting reports; 10% estimate of traffic being meeting / chamber related does not work when traffic spikes - as more visitors come to visitor center, there aren't suddenly more Chamber visitors; Director to work with Chamber to determine monthly traffic assumption

1. Regardless, in June, over 12,000 people came through the doors at the visitor center during open hours - almost double May traffic

2. Director explained previous data was collected differently, so direct comparisons aren't accurate - signage has

changed, tracking has changed, etc – we are developing a baseline of traffic data in 2015 for use in future years

h. Tax Compliance

    i. Greg and Jennie met with Bentley Henderson on July 10th to review compliance effort and what is needed from County; contract with MuniRevs needs to be signed and effort is underway

8. Old Business

9. New Business

    a. Public Comment

    b. Tourism Board Ideas and Comments

    c. Nick Tallent asked about consequences if Jennie left position, how much would fall through the cracks and asked if there was a contingency plan in place

        ii. Jennie assured the group there were no plans in place to depart, however, now that there is staff in place, we are in a much better position than ever before

10. Adjournment

    a. Steve McKain motioned to adjourn at 4:05pm, Steve Wadley seconded, all approved

AGENDA DOCUMENTATION

REPORTS TO COUNCIL: IV.4

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: HOT SPRINGS PEDESTRIAN BRIDGE REPORT
ACTION: NONE - DISCUSSION ONLY

PURPOSE / BACKGROUND

In 1995, a pedestrian bridge was placed to connect the Hots Springs Resort and downtown. The bridge spans the river at the Resort and the back of the County Courthouse. The bridge has been in place for almost 20 years and was designed and manufactured by Big R Bridges.

Early this late Spring, Town staff was performing routine maintenance and when replacing wooden planks on the bridge it was noticed that there were cracks in the metal structure. The Town Building Official examined the bridge and recommended a more detail examination be performed. A local structural engineer, Jim Van Liere, PE was engaged to do a thorough review of the bridge and render an opinion as to the structural integrity of the bridge and possible next steps.

In June 2015 the report was delivered and the salient points are as follows:

- There is no doubt that the primary cause of the distress in this bridge is the fact that the support conditions to allow for expansion and contraction of the bridge under various loading conditions has been compromised at the northeast corner support, and possibly the remaining three support corners.
- The allowance for expansion and contraction does not appear to be sufficient for this bridge under the weather and snow load conditions to be experienced in this location.
- Due to compromised support conditions, this bridge has been loaded far above its rated, or design, capacity. The reason it has not suffered a complete failure in the past is the fact that bridges of this type quite often have a built-in safety factor of one and one-half to two, and that steel structures, because of their flexibility, have the ability to some extent to re-adjust to loads imposed upon it. However, it is to be understood that in an analysis of this type it is impossible to review the structure for all possible loading conditions. There are too many unknown factors relative to its installation with respect to its north end abutment, installation temperature, temperatures to which it has been exposed over the years, wind loads, the many possibilities as to the maximum amount of snow on the bridge and the many locations and positions of the Bobcat on the bridge when removing the snow.
- The offset pipe supports from the floor beams induced small torsional shear forces in the floor beams. Although these torsional forces were not large, they did induce additional shear stresses that contributed to the distortion and twisting of some members that were more highly stressed.
- Out of 569 members in this bridge, 112 or about 20 percent have experienced an overload condition in some form to some degree.
- The bridge in its present condition is safe enough to use until the end of the summer tourist season.
- No vehicles should be allowed on the bridge except bicycles.
- No more than 50 people should be allowed to congregate on the bridge at one time.
- The bridge appears to have been designed correctly except for the expansion and contraction detail at the north abutment.

- Incorrect construction or installation, or movement of the north abutment, seems to be the cause of the structural distress exhibited in some of the structural steel members.

- Many of the steel members are suffering severe distress and should be removed and replaced. Unfortunately, performing this action could be extremely difficult, dangerous and expensive.

- It is recommended that the bridge remain in use until this fall, when at such time to be determined, it be closed, some of the timber decking removed, and the steel members below be examined in more detail. Overall, at this time it appears more reasonable to remove and replace the bridge rather than trying to repair it.

Staff is presently communicating with Big R Bridges as well as Town Legal Counsel to chart a course n replacing the bridge. Staff has been in communication with both DoLA and GOCO for possible grant funding to off-set the costs of replacing the bridge. At this juncture, staff intends to submit grant applications to both DoLA and GOCO for funding.

ATTACHMENTS

- Hot Springs Structural Review Report by Jim Van Liere, PE

FISCAL IMPACT
The preliminary cost estimate to replace the bridge is approximately $250,000. This does not include the abutments as they are believed to be still serviceable.

2015 TOWN COUNCIL GOALS & OBJECTIVES
The importance of the Hot Springs Pedestrian Bridge cannot be overstated. It provides an absolutely vital link to both sides of the river and is integral to the pedestrian and bicycle traffic in the downtown core. Maintaining and or replacing the pedestrian bridge is consistent with, arguably, all 4 of the Council's adopted Goals & Objectives.

RECOMMENDATIONS
No Action is being requested of Council at this time.

AGENDA DOCUMENTATION
REPORTS TO COUNCIL: IV

PAGOSA SPRINGS TOWN COUNCIL JULY 23, 2015

FROM: ZACH RICHARDSON, TOWN BUILDING OFFICIAL

PROJECT: BUILDING DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

COMMERCIAL BUILDING ACTIVITY:

Walmart has no changes since the last report – they have received their temporary Certificate of Occupancy, which will allow them to open for business; however, items to be completed include landscaping, lighting and parking lot striping.

City Market is moving forward with the interior remodeling. The Department has received a full set of the fire alarm plans and inspections are proceeding. A new sign is pending for the addition of Starbucks Coffee – a booth constructed inside the entry of the store.

Hometown Food Markets began remodeling the interior of the grocery store – addition of a customer service counter and walls and installation of new refrigeration equipment. The owners have also submitted, and received approval for, new signage for the front of the store and a banner announcing, "Coming Soon", it is the owner's intent to be ready to open the doors on August 1.

BUILDING PROJECTS:

The Department issued the following building permits:

	APRIL	MAY	JUNE	YEAR TO DATE
Commercial - Addition	1	1	0	6
Commercial – Improvement	3	1	2	6
Commercial – New	0	0	0	0
Residential – Addition	1	1	1	3
Residential – Improvement	0	1	2	4
Residential – New	2	0	5	10
Permits Issued	7	4	10	29
Total Project Valuation:	$3,834,515.00	$47,200.00	$1,278,255.00	$5,926,594.00

Five files were closed for completion in accordance with the approved plans:

- Reservoir Hill Gazebo
- Reservoir Hill Observation Deck
- Reservoir Hill Toilet Building
- New Single Family Residence – S. 6th Street
- Commercial Remodeling – San Juan Street

As of this report, the Department has 89 active building permits.

Building Official Zach will be at a meeting on July 23rd in Glenwood Springs with the Mountain Building Officials to discuss how they are working with marijuana shops as they are not referenced in the International Building and Fire Codes.

The Building Department is expecting the major hospital and medical arts building expansion plans by the end of the month.

BUILDING OFFICIAL TRAINING AND CONTINUED EDUCATION:

Building official attended training during the month of June.

BUILDING INFRACTIONS:

Legal Issues - The Department continues to work with legal counsel to follow-up on building code violations.

Asbestos Demolition Project: A demolition of a mobile home began without a project permit and, upon further evaluation, the project was positive for asbestos. All the State reporting is complete so the Department issued a Demolition permit on 6/26/15. The owner has contracted with a new contractor and some progress is evident. It is expected that the project will be complete within the next several months.

AGENDA DOCUMENTATION
DEPARTMENT HEAD REPORT:VIII.1

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: SHANE LUCERO
COMMUNITY CENTER

PROJECT: COMMUNITY CENTER UPDATES
ACTION: UPDATE AND DISCUSSION

UPCOMING EVENTS

July 6th, construction on the new floor started in the gym.

CENTER UPDATES

RACC is currently offering 12 programs free to the community.

The Garden Gala Fashion Show was a success. We earned $5124.02 for each organization.

Due to construction of the gym floor we cancelled our Summer Movie Nights for July that were held in the gym.

Also due to construction, Grace Church will be relocating their services and will not be using the building in July after July 6th. They currently rent out the whole building every Sunday.

At the last council meeting Council Member Bunning had suggested tracking the use of our building. Staff started a sign-up sheet for participants of all programs. However here is the result of what we found according to the sign-up sheets for Pickleball:

Date	Total	Town	County	Other
6/25	6	0	5	1
6/26	21	0	20	1
6/29	22	0	18	4
7/1	24	0	20	4

We do have the sign-up sheets for all of our programs available at the community center.

All of our free programs are open to everyone regardless of age or ability.

AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: DENNIS FORD, MAINTENANCE SUPERVISOR

PROJECT: MAINTENANCE DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

MAINTENANCE UPDATE

This year's fireworks show was shot off by the same group we purchased the fireworks from. Previous years the town staff had shot off the fireworks, but due to liability issues staff felt it was better to hire a professional company. Staff did assist with setting up the fireworks venue for the company but the show was not what was expected. Staff is currently exploring options for next year's fireworks display. Due to the inability to find 12" shells the show will never be as grand as it has in the past. Staff will keep the council informed on the process of searching for a new company for the 2016 show, at this time it has been difficult to find another vendor.

During the June hailstorm, rainwater flooded the gymnasium floor and storage room. Staff has changed the direction of flow of the back gutter at community center in order to stop water from entering the gym. Staff also has been working on the installation of new bathroom fixtures at the community center and new flashing on the gym's roof venting system. Installation of a new compressor and fan coil in walk cooler in the Senior Center area. The doors have been cut in the gym to accommodate the new wood floor.

Staff installed new bathroom fixtures at visitor's center and a new gutter at back door.

Staff has completed the required safety training for this month.

Staff continues to complete daily tasks.

AGENDA DOCUMENTATION

REPORTS TO COUNCIL: IV

PAGOSA SPRINGS TOWN COUNCIL
July 23, 2015

FROM: JIM MILLER, PARKS SUPERVISOR &DARREN LEWIS, RECREATION SUPERVISOR

PROJECT: PARKS AND RECREATION DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

PARKS AND RECREATION COMMISSION UPDATE

The latest Parks and Recreation Commission (PRC) meeting was held July 14; the minutes from this meeting are attached for your review. The next PRC meeting will be held Tuesday, August 11 at 5:30 p.m. in Town Hall.

RECREATION PROGRAMS UPDATE

Youth baseball for ages 6-13 ended July 2. Adult softball for men and co-ed will end July 31. Soccer registration will begin on July 20 for ages 5-12. New scoreboard and glass backboards have been installed at the Community Center gym. The wood floor is being installed at this time.

PARKS UPDATE

Damage due to unusually wet conditions on the Athletic Field in Town Park during the Fourth of July Carnival has been repaired and the busy schedule of activities and events in the parks continues. Larry Beverley has completed his training as the Parks use Administrator, and is performing well as liaison with numerous event producers. Infrastructure improvements on Reservoir Hill are underway, including a potable water pumping station and another 200 amp electrical service to accommodate the expanding Folk Festival requirements. The gazebo in Centennial Park has been removed to facilitate the beginning of construction on the Geothermal Greenhouse Project.

Town of Pagosa Springs Parks and Recreation Commission
Minutes from Tuesday, July 14, 2015
Commission Chair Mike Musgrove called the meeting of the Town of Pagosa Springs Parks and Recreation Commission to order at 5:33p.m. The following were present:

Commission Members: Mat deGraaf, Sally High, Jenny Highum, Mike Musgrove, David Pettus, and Ed Simpson. Scott Miller arrived late.

Staff: Greg Schulte, Larry Beverley, and Jim Miller

Members of the Public: Amanda Gadomski, Candace Jones, and John Masquelier

Announcements: Jim Miller announced that Commr. Steinert had contacted him to resign his position on the Parks and Rec Commission. He also stated that Commr. Scott Miller had called to let the group know that he would be late.

A motion was received from Commr. deGraaf that the minutes of the June 9th meeting be approved as read. The motion was seconded by Commr. Pettus and passed with unanimous consent.

New business
The Commission heard a motion from Commr. High as follows: "that Amanda Gadomski be appointed by the Town Council to serve as a member of the Parks and Recreation Commission." The motion received a second from Commr. Simpson and passed with unanimous consent.

Old Business
The agenda was amended to allow a presentation of a request by John Masquelier, an advocate for tennis courts in Pagosa Springs. He showed the Commission documents verifying the creation of a non-profit entity, *Taxpayers for Tennis* that had received tax-exempt status. He also described efforts he had undertaken to locate a contractor to build courts. A rough estimate of the cost of that construction, he said, was approximately $30,000/court including fencing. He also said that Town funds contributed to the project would improve the chance of grant funding. His request resulted in the determination that a work session of the Commission would be held before the next regularly-scheduled meeting to develop a list of priorities to share with the Town Council prior to the beginning of budget deliberations for the 2016 budget year. A skatepark update from Mike Musgrove focused on funding for Phase Two. He stated that the Coalition for Concrete would be able to contribute roughly $50,000 to the project and was hoping that a similar contribution would be forthcoming from both the Town of Pagosa Springs and Archuleta County, eliminating the need to apply for GOCO funding. Town Manager Greg Schulte interjected that structural problems with the Springs pedestrian bridge would likely require its replacement, and that the new bridge would hopefully be funded by a GOCO grant, placing other potential projects lower on the priority list. Sally High, representing the Geothermal Greenhouse Project reported on the process of beginning construction in Centennial Park. She said that bids were pending, and a contract could be let as early as July 23rd, with construction to begin as soon as next month. The Commission then turned to setting terms of service for the Commissioners. It was decided that Commissioners deGraaf, High, Musgrove and Simpson would serve one-year terms to expire at the end of 2015. Commissioners Gadomski, High, Miller, and Pettus will serve two-year terms to expire at the end of 2016.

Department Head Reports
Jim Miller stated that Larry Beverley, the new Parks Use Administrator hired on a trial basis, was performing the events-liaison function well, and that his training period, though intensive, had been completed. Greg Schulte then mentioned that the Board of County Commissioners had scheduled an internal work session to discuss the proposed merging of Parks and Recreation efforts between the Town and County. He had no information on the outcome of that work session. Members of the Commission expressed their hope that a member of the Town Council would be willing to serve as a liaison to the Parks and Rec Commission. Mr. Schulte stated he would convey their request to Council. Mr. Schulte also reported on the interviews conducted the day before of applicants for the Parks and Rec Director position. He stated that two finalists had been selected and that his decision would be reached by the end of the week.

At 7:27p.m. a motion was received from Commissioner Simpson that the meeting be adjourned. It got a second from Commr. Pettus and received unanimous consent. The next regularly-scheduled meeting of the Town of Pagosa Springs Parks and Recreation Commission will be at 5:30p.m.on August 11, 2015 at the Pagosa Springs Town Hall.

_____
Mike Musgrove, Chair

AGENDA DOCUMENTATION

REPORTS TO COUNCIL

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: WILLIAM ROCKENSOCK, CHIEF OF POLICE

PROJECT: POLICE DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

POLICE DEPARTMENT INCIDENT REPORTING

The Pagosa Springs Police Department Statistics for June, 2015

Officers responded to 338 calls for service.
Officers responded to 23 agency assist calls for service
Officers completed 50 incident / offense reports
Officers completed 17 accident investigation reports.

OFFICER TRAINING UPDATE

June 2015

Daily training bulletins are administered to each officer by Lexipol to keep current on Police Department Policy and Procedure.

All officers completed annual Taser certification.

All officers completed 4 hours of arrest control training.
Officer W. Brown completed POST driver instructor training.
Officer B. Brown completed POST patrol rifle instructor training.
Officer Gholson completed PPCT arrest control instructor training.
The Police Department is hosting a training, provided free of charge, by CDPHE on July 30th.

RECRUITING UPDATE

The police department, currently, has two full time opening(s) for patrol officer. One of the positions is occupied by a part time officer.
The department is currently increasing recruiting efforts and has distributed hiring posters to Colorado law enforcement training academies throughout the state.

COMMUNITY EVENTS UPDATE

The police department has received a law Enforcement Assistance Funding (LEAF) grant from CDOT for the remainder of 2015, this grant pays overtime compensation for officer to conduct designated DUI enforcement.

The police department assisted in getting volunteers flagger certified, for traffic control.

The police department has been utilizing the radar speed trailer at high traffic areas throughout the community. This has been an effective tool in assisting motorists with voluntary speed compliance

CAPITAL IMPROVEMENTS UPDATE

The Police Department is currently pricing a replacement truck for animal control though GSA.

The Police Department has purchased two new desktop work stations and a laptop to replace outdated computers in the patrol room and Detectives office.

AGENDA DOCUMENTATION

REPORTS TO COUNCIL:V

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: SCOTT FROST SPECIAL PROJECTS DEPARTMENT

PROJECT: DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

SUBJECT UPDATE

Piedra Street Resurfacing: The project is approximately 30% complete with curb and gutter being installed at this time.

Majestic drive: The additional $75,000 from CMAQ has been approved and is in process of being made available.

Community Center Hardwood Floor: The Subfloor is complete and the Maple has been racked (laid out) Contractor has asked staff to turn off Evaporative coolers to lower humidity. Contractor has been informed of decision to paint corners for pickle ball courts. Project is on schedule.

GOCO: The Town has been selected as a Starburst award winner for Excellence in Administering GOCO Funding!
An award will be presented by a GOCO representative at an upcoming Council meeting.

RFQ for Engineering Services: At the time this report was written (July 17) there have been 9 requests for packets which have been sent.

AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV.1A

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: CHRIS GALLEGOS, PUBLIC WORKS DIRECTOR

PROJECT: PUBLIC WORKS DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

STREETS UPDATE

Work on finishing the concrete walk way at 800 block and 160. Worked on drainage, cleaning ditches and culverts, also worked on potholes and some signs. Had some flooding and that also was attended to. Did some painting on streets. Got ready for 4th of July parade and also traffic control over the holiday. Helped in preparation of fireworks. Helped Gene with sewer project at Mesa Heights.

GEOTHERMAL UPDATE

Geothermal is off for the season.

AGENDA DOCUMENTATION

REPORTS TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: APRIL HESSMAN, CMC, TOWN CLERK

PROJECT: TOWN CLERK DEPARTMENT REPORT
ACTION: UPDATE AND DISCUSSION

CLERK'S OFFICE UPDATE

Staff has been working with the Pagosa Area Geothermal Water and Power Authority to complete review of invoice submissions from Pagosa Waters for drilling and reporting completed in May and June. Reimbursement from the DoLA grant has been submitted to reimburse the Town, County and Pagosa Verde's contributions. Recently the shareholders reduced the amount of funding in the PAGWPA account to $250,000. The amount consists of proportional amounts of ownership, Town 40% $100,000, County 40% $100,000, and Pagosa Verde 20% $50,000. It is anticipated the funds from the DoLA grant will be received in 3 to 4 weeks.

Kathy Harker, the town Human Resources/Records clerk met with Larry Cardamone, CIRSA Senior Loss Control Representative, to conduct the Town's annual loss review on July 14, 2015. Mr. Cardamone visited the Town Park, South Park, and Yamaguchi Park, as well as, the Town Hall, Community Center, and Town Shop. As a result of the review, Mr. Cardamone has made several recommendations that staff is currently reviewing.

The Clerk's office continues to work with businesses in an effort to get every business who works in the town a business license. A new form was created for business licensing and contractor licensing and both are available on the Town's website in an effort to streamline the process. Many businesses are taking advantage of the online accessibility for renewing their licenses online through the Town's new Xpress Billpay application.

The timekeeping module through Caselle continues to move forward. This product will enhance the department's ability to track their areas of work and streamline approvals and payroll efforts.

The Town's popularity seems to be growing as shown by the 319 likes on the Facebook page. The recreation department uses Facebook to share recreation events and news, town clerk's office posts town council meeting notices, ribbon cuttings, road closures, job openings, request for proposal and bid requests, and town news. The planning and historic board posts information and agendas, as does the tourism department.

We continue to use the Town's website and bulk email and text program to reach those 182 signed up to receive all town notices.

AGENDA DOCUMENTATION

REPORT TO COUNCIL:IV

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: TOWN MANAGER'S REPORT
ACTION: UPDATE AND DISCUSSION

CIVIL PROSECUTIONS

Staff has been requested to provide the top 10 nuisance violations for addressing in the near future. The courts have been notified to prepare for the prospect of these cases being handled through the court system. Staff will endeavor to handle the nuisance complaints outside the court system and extend assistance as appropriate to the affected parties.

PARKS & RECREATION MANAGEMENT UPDATE

As of this writing, the interviews for the Director of Parks & Recreation occurred on July 13th and the 2 panels recommended 2 top candidates. The final 2nd interview of the top 2 candidates will occur on June 21st. A decision will be made by the Council meeting of July 23rd.

SB 152 OPT OUT

Town staff, along with members of a variety of southwestern Colorado jurisdictions, met to discuss the possibility of opting out of the restrictions of SB 152 which restricts the ability of local governments to utilize existing or planned telecommunications infrastructure. The Town and county currently own the fiber optic SCAN network and are inhibited from utilizing it to its complete potential by the SB 152 restrictions. As noted elsewhere in the reports, the County is planning to refer the question to the County voters for the November 2015 election.

MCCABE CREEK INFO

At the last TPR meeting we discussed with the CDOT representatives the status of the McCabe Creek project and the costs continue to go up and the funding gap still exists. CDOT staff is going to ask for an independent cost analysis to see if the projects costs can be refined further. CDOT will more than likely need to seek additional funding from statewide CDOT sources. The independent cost estimate is projected to be complete by the end of June or early July.

2016 BUDGET PREP

The staff will be preparing for the 2016 Budget. A calendar is being prepared and will be distributed to all Department Heads as well as Town Council this month.

AGENDA DOCUMENTATION

NEW BUSINESS:V.1

PAGOSA SPRINGS TOWN COUNCIL
JULY 23RD, 2015

FROM: JENNIFER GREEN, TOWN TOURISM COMMITTEE

PROJECT: HONORING BOB HAND'S SERVICE TO THE COMMUNITY
ACTION: DISCUSSION AND POSSIBLE DECISION

PURPOSE/BACKGROUND

Bob Hand provided significant contributions to the community. One such contribution, was his leadership as Chamber Director and efforts to build the visitor center. With the change in the visitor center sign on Hot Springs Blvd in February 2015 from the Bob Hand Visitor Center to the Pagosa Springs Visitor Center, the Tourism Board recommends to Town Council to honor Bob Hand's service to the community in a different manner. The sign for the visitor center was confusing to visitors who did not know who Bob Hand was and that the visitor center was the Pagosa Springs visitor center.

The Tourism Board discussed ways to honor Mr. Hand's service to the community during their June meeting. At that time, they determined to have a plaque in Mr. Hand's honor placed in the lobby of the visitor center and hold a dedication ceremony. The Board asked the Director to reach out to Mr. Hand's family to ensure they would approve the recognition being recommended. Director spoke with Bob's son, Scott, in early July. Scott was appreciative of the diligence the Board had shown to honor his Dad and understood why the name had been removed from the sign and was pleased with the recommendation. In fact, Scott, who lives in New Mexico, would like to attend the ceremony. Director also asked for Scott's assistance for the content on the plaque.

The plaque will be placed in a prominent location in the visitor center and include information about Mr. Hand's contributions to the community. Therefore, visitors will learn about the history of the visitor center.

FISCAL IMPACT

The cost of having the plaque created will be covered in the approved 2015 visitor center budget.

RECOMMENDATION

It is the recommendation of the Tourism Board that Town Council honor Bob Hand's service to the community with a plaque placed in the visitor center, with a dedication ceremony.

AGENDA DOCUMENTATION

NEW BUSINESS: V.2

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: JAMES DICKHOFF, PLANNING DEPARTMENT

PROJECT: RESOLUTION 2015-11, A RESOLUTION OF THE TOWN OF PAGOSA SPRINGS, COLORADO, APPOINTING LINDSEY SMITH TO THE HISTORIC PRESERVATION BOARD.
ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

The Planning Department has received a "Letter of Interest" from Lindsey Smith to serve on the Historic Preservation Board. Lindsey Smith is our new local Forest Service Archeologist and has previous experience on Historic Preservation Boards and matters concerning preservation.

On July 08, 2015, the Historic Preservation Board unanimously approved a recommendation for Town Council "To Approve the Appointment of Lindsey Smith to the Historic Preservation Board".

The Town's LUDC section 2.5.5.B.1 **Members and Terms of Office;**
"Members of the Historic Preservation Board (HPB) are appointed by the Town Council by resolution.
The HPB shall consist of five regular members and two alternates, each to be appointed for a term of four years."

ATTACHMENT(S):

1) Letter of Interest from Lindsey Smith
2) Resolution 2015-11, A Resolution of the Town of Pagosa Springs, Colorado, Appointing Lindsey Smith to the Town Historic Preservation Board for a four year term.

APPLICABILITY TO COMPREHENSIVE PLAN AND GOALS

Input from all segments of our community, Town and County residents, was essential in the development of the Town's LUDC including Article 8, Historic Preservation and the Town's Comprehensive Plan & Goals including Chapter 8, Historic Preservation and Community Heritage. Continued involvement and participation from interested and qualified members of the community will further benefit the implementation of the Town's codes and plans.

RECOMMENDATION

It is the recommendation of the Historic Preservation Board that the Council by motion;

Approve Resolution 2015-11, A Resolution of the Town of Pagosa Springs, Colorado, Appointing Lindsey Smith to the Town Historic Preservation Board for a four year term.

Lindsey C. Smith

143 S Franklin Ave ✦ Wenatchee, WA 98801 ✦ (860) 918-2566 ✦ Lindscsmith@hotmail.com

May 18, 2015

To the Pagosa Springs Historic Preservation Board:

I am submitting a letter of interest to serve on the Pagosa Springs Historic Preservation Board in one of the vacant alternative member seats. I am a Forest Service archaeologist, who has recently accepted the Pagosa Springs District archaeologist position last held by Wendy Sutton. During my career as a professional archaeologist, I have had the opportunity to participate in various facets of historic preservation. I regularly engage in independent field and literature research relating to prehistoric and historic cultural resources and landscapes. Following the National Historic Preservation Act and the Secretary of the Interior Standards and Guidelines, I evaluate and make formal assessments of eligibility on historic properties for the National Register of Historic Places, and consult with the State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officers (THPOs) for final determination. During my three years in Central Washington State, I served on the Wenatchee Historic Preservation Board as a member for two years, and most recently as the Vice Chair. I very much enjoyed my time on the board and would like to serve the community of Pagosa Springs. I will be moving to the area at the end of June and would like to attend the July 15th HPB meeting.

I look forward to meeting you,

Lindsey Smith

TOWN OF PAGOSA SPRINGS, STATE OF COLORADO

RESOLUTION NO. 2015-11

A RESOLUTION OF THE TOWN OF PAGOSA SPRINGS, COLORADO, APPOINTING LINDSEY SMITH TO THE HISTORIC PRESERVATION BOARD;

WHEREAS, Town Ordinance No. 520 establishes powers and duties, qualifications, and terms for members of the Historic Preservation Board; and

WHEREAS, Section 2.5.5 of the Town of Pagosa Springs Land Use Development Code states that the Historic Preservation Board shall consist of five (5) regular members and two (2) alternate members who shall be appointed by the Town Council by resolution; and

WHEREAS, the Historic Preservation Board recommends appointing Lindsey Smith as an Alternate member of the Board.

THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS,

1. **Appointment of Historic Preservation Board Member:** LINDSEY SMITH is hereby appointed to serve as an Alternate member of the Historic Preservation Board for a four (4) year term, commencing on August 1, 2015 and concluding on July 1, 2019.

2. **Severability:** If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

3. **Effective Date:** This Resolution shall take effect and be enforced immediately upon its approval by the Town Council.

ADOPTED THIS _____ DAY OF _____, 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

AGENDA DOCUMENTATION

NEW BUSINESS: V.3

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: RESOLUTION 2015-12, A RESOLUTION OF THE TOWN OF PAGOSA SPRINGS APPOINTING AMANDA GADOMSKI TO THE PARKS & RECREATION COMMISSION.
ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

The Parks & Recreation Commission has received an indication of interest from Amanda Gadomski to serve on the Parks & Recreation Commission. Amanda is a new addition to the Town of Pagosa Springs as one of the owners of Pagosa Outside Sports located on Hwy 160 across the street from Kip's Cantina. In addition, Amanda served as a Recreation Coordinator for the City of Longmont. She has been informally attending the Parks & Recreation Commission meetings for the past few months and would provide valuable insight as a recreation business owner and as a past municipal recreation professional.

Pursuant to the Town Municipal Code, the Parks & Recreation Commission shall consist of no less than 5 members and no more than 9 members. If Amanda is appointed, then there will be a total of 8 members. Members are appointed for 2 year terms.

Parks & Recreation Commission Action

On July 14, 2015, the Parks & Recreation Commission unanimously approved a recommendation for Town Council "To Approve the Appointment of Amanda Gadomski to the Parks & Recreation Commission for a 2 Year term."

ATTACHMENT(S):

1) Resolution 2015-12, A Resolution of the Town of Pagosa Springs, Colorado, Appointing Amanda Gadomski to the Town Parks & Recreation Commission for a two year term.

RECOMMENDATION

It is the recommendation of the Parks & Recreation Commission that the Council by motion;

1. **"Approve Resolution 2015-12, A Resolution of the Town of Pagosa Springs, Colorado, Appointing Amanda Gadomski Smith to the Town Parks & Recreation Commission for a two year term."**

TOWN OF PAGOSA SPRINGS, STATE OF COLORADO

RESOLUTION NO. 2015-12

A RESOLUTION OF THE TOWN OF PAGOSA SPRINGS, COLORADO, APPOINTING AMANDA GADOMSKI TO THE PARKS & RECREATION COMMISSION

WHEREAS, Chapter 14, Section 14.3.2 of the Town of Pagosa Municipal Code states that the Parks & Recreation Commission shall consist of a minimum of five (5) regular members and no more than nine (9) members who shall be appointed by the Town Council by resolution; and

WHEREAS, the Parks & Recreation Commission recommends appointing Amanda Gadomski as member of the Commission for a two year term;

THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS,

1. **Appointment of Parks & Recreation Commission Board Member:** AMANDA GADOMSKI is hereby appointed to serve as a full member of the Parks & Recreation Commission for a two (2) year term, commencing on July 23, 2015.

2. **Effective Date:** This Resolution shall take effect and be enforced immediately upon its approval by the Town Council.

ADOPTED THIS _____ DAY OF _____, 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

AGENDA DOCUMENTATION
NEW BUSINESS: V.4

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: JAMES DICKHOFF, TOWN PLANNING DIRECTOR

PROJECT: FIRST READING OF ORDINANCE 830, AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS REPEALING AND READOPTING SECTIONS 6.5.1.9(1)(U) AND 6.5.1.9(1)(V) IN ARTICLE 5 OF CHAPTER 6 OF THE PAGOSA SPRINGS MUNICIPAL CODE FOR THE REGULATION OF MARIJUANA ESTABLISHMENT PRODUCTS PURCHASED FROM OUTSIDE ARCHULETA COUNTY
ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE / BACKGROUND

On May 02, 2015, The Town Council approved Ordinance 825, adopting regulations for marijuana Business Establishments. During the process of outlining the application forms and processes, staff has identified a regulation that may need clarification.

The purpose of Ordinance 830 is to clarify the Town's Marijuana Business Establishment regulations regarding establishments purchasing products from outside of Archuleta County as currently contemplated in Chapter 6, Article 5 of the Municipal Code, previously adopted in Ordinance 825.

Archuleta County is proposing similar language clarification in amended regulations they are now considering.

ANALYSIS

The subject code sections adopted in Ordinance 825 currently read as follows:

6.5.1.9 Operation Limitations

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

Section 6.5.1.9(1)(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.

Section 6.5.1.9(1)(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.

These code sections would indicate that 70% of all products (infused edibles and flowering buds) are required to be purchased within Archuleta County. The issue with this language is that there are no infused products produced in Archuleta County, and current businesses see up to 40% of their sales from non-flowering products.

It is Staff's understanding the Town Council's intent in Ordinance 825 was to require the majority of the Marijuana plant flowers sold in the Town, be grown locally. If that is the case, staff suggests simple language changes to clarify these regulations. **Ordinance 830 proposes to repeal the current language and readopt with the following language:**

Section 6.5.1.9(1)(u): That a medical marijuana center shall obtain at least 70% of its medical marijuana "FLOWERED BUD" inventory from an optional premises cultivation operation located within Archuleta County. This local grow regulation does not include concentrates, infused or edible products.

<u>Section 6.5.1.9(1)(v):</u> That a retail marijuana store shall obtain at least 70% of its retail marijuana "FLOWERED BUD" inventory from a retail cultivation facility located within Archuleta County. This local grow regulation does not include concentrates, infused or edible products.

FISCAL IMPACT

There are expenses associated with the review of proposed code revisions by the Town's attorney.

RECOMMENDATION

Staff recommends the TC consider the First Reading of Ordinance 830 and the following Alternative Actions:

1) **APPROVE the First Reading of Ordinance 830, An Ordinance of the Town of Pagosa Springs repealing and readopting sections 6.5.1.9(1)(u) and 6.5.1.9(1)(v) in Article 5 of Chapter 6 of the Pagosa Springs Municipal Code, for the Regulation of Marijuana Establishment purchases from Outside of Archuleta County.**

2) APPROVE the First Reading of Ordinance 830, An Ordinance of the Town of Pagosa Springs repealing and readopting sections 6.5.1.9(1)(u) and 6.5.1.9(1)(V) in Article 5 of Chapter 6 of the Pagosa Springs Municipal Code, for the Regulation of Marijuana Establishment purchases from Outside of Archuleta County, with the following revisions……..

3) Deny approving the First Reading of Ordinance 830, and provide direction to staff.

County regulations

A Retail Marijuana Store must also have identical ownership with an Optional Premise Cultivation facility also licensed by the authority. Provided, however, on an annual basis, no less than seventy percent (70%) of the product available for sale to the general public must have begun as a seed or cutting and harvested at the affiliated Optional Premise Cultivation facility, except for product manufactured by an Infused Product Manufacturer. Evidence of compliance with this provision shall be provided at the time of any renewal application.

A Retail Marijuana Store must also have identical ownership with an Optional Premise Cultivation facility also licensed by the authority. Provided, however, on an annual basis, no less than seventy percent (70%) of the product available for sale to the general public must have begun as a seed or cutting and harvested at the affiliated Optional Premise Cultivation facility, except for product manufactured by an Infused Product Manufacturer. Evidence of compliance with this provision shall be provided at the time of any renewal application.

#1 Medical:

That a medical marijuana center shall obtain at least 70% of its medical marijuana inventory product from an optional premises cultivation operation located within Archuleta County. Such inventory product available for sale to the general public must have begun as a seed or cutting and harvested at a Cultivation facility located within Archuleta County, except for product manufactured by an Infused Product Manufacturer. Evidence of compliance with this provision shall be provided at the time of any renewal application.

#2 Medical:

That a medical marijuana center shall obtain at least 70% of its medical marijuana "FLOWERED BUD" inventory from an optional premises cultivation operation located within Archuleta County. This local grow regulation does not include concentrates, infused or edible products.

#1 Retail:

That a retail marijuana store shall obtain at least 70% of its retail marijuana inventory product from a retail cultivation facility located within Archuleta County. Such inventory product available for sale to the general public must have begun as a seed or cutting and harvested at a Cultivation facility located within Archuleta County, except for product manufactured by an Infused Product Manufacturer. Evidence of compliance with this provision shall be provided at the time of any renewal application.

#2 Retail:

That a retail marijuana store shall obtain at least 70% of its retail marijuana "DRIED FLOWERED BUD" inventory from a retail cultivation facility located within Archuleta County. This (local grow) regulation does not include concentrates, infused or edible products.

EXHIBIT 1

TOWN OF PAGOSA SPRINGS MUNICIPAL CODE

CHAPTER 6
BUSINESS REGULATIONS
ARTICLE 5
PAGOSA SPRINGS MARIJUANA LICENSING REGULATIONS

Operation Limitations

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

That a medical marijuana center shall obtain at least 70% of its medical marijuana dried flowered "Bud" inventory from an optional premises cultivation operation located within "located within and Licensed by Archuleta County, "WITH THE EXCEPTION OF INFUSED PRODUCTS" OR "70% OF IT'S FLOWER PRODUCTS"

That a retail marijuana store shall obtain at least 70% of its retail marijuana inventory from a retail cultivation facility located within "located within and Licensed by Archuleta County, "WITH THE EXCEPTION OF INFUSED PRODUCTS" OR "70% OF IT'S FLOWER PRODUCTS"

TOWN OF PAGOSA SPRINGS, COLORADO

ORDINANCE NO. 830
(SERIES 2015)

AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS REPEALING AND RE-ADOPTING SECTIONS 6.5.1.9(1)(u) and 6.5.1.9(1)(v) IN ARTICLE 5 OF CHAPTER 6 OF THE PAGOSA SPRINGS MUNICIPAL CODE, FOR THE REGULATION OF MARIJUANA ESTABLISHMENT PRODUCTS PURCHASED FROM OUTSIDE OF ARCHULETA COUNTY

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 care-givers 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, on May 21, 2015, the Town Council approved Ordinance 825, "an Ordinance of the Town of Pagosa Springs amending chapter 6 of the Pagosa Springs Municipal Code by the Addition thereof of a new Article 5 for the regulation and licensing of marijuana business establishments; and

WHEREAS, Town Council has determined that clarification is needed regarding Municipal Code sections 6.5.1.9(1)(u) and 6.5.1.9(1)(v), regarding the requirement to purchase at least 70% of marijuana products for resale within Archuleta County.

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

I. Repeal and Re-Adoption of Chapter 6, Article 5, Section 6.5.1.9(1)(u) and 6.5.1.9(1)(v). Chapter 6, Article 5, section 6.5.1.9(1)(u) and 6.5.1.9(1)(v) of the Pagosa Springs Municipal Code is hereby repealed and re-adopted 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 upon the approval of the second reading.

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 23rd DAY OF JULY, 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. 830 (Series 2015) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the 23rd day of JULY, 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 incarnation 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. 830 (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 AUGUST, 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)

EXHIBIT 1

TOWN OF PAGOSA SPRINGS MUNICIPAL CODE

CHAPTER 6
BUSINESS REGULATIONS

ARTICLE 5
PAGOSA SPRINGS MARIJUANA LICENSING REGULATIONS

Sec. 6.5.1.9 Operation Limitations

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

(u) That a medical marijuana center shall obtain at least 70% of its medical marijuana "FLOWERED BUD" inventory from an optional premises cultivation operation located within Archuleta County. This local grow regulation does not include concentrates, infused or edible products.

(v) That a retail marijuana store shall obtain at least 70% of its retail marijuana "FLOWERED BUD" inventory from a retail cultivation facility located within Archuleta County. This local grow regulation does not include concentrates, infused or edible products.

AGENDA DOCUMENTATION

NEW BUSINESS:V.5

PAGOSA SPRINGS SANITATION BOARD OF DIRECTORS
JULY 23, 2015

FROM: APRIL HESSMAN, TOWN CLERK

PROJECT: ORDINANCE 831, FIRST READING, AMENDING SECTION 16.4.9 OF THE MUNICIPAL CODE REGARDING ENFORCEMENT OF LODGERS TAX
ACTION: REVIEW AND POSSIBLE ACTION

PURPOSE/BACKGROUND

The Town's 4.9% lodger's tax is imposed to be collected by vendors furnishing lodging and is used to promote the town to encourage tourist to visit. It is the duty of the vendors to collect and remit the lodgers tax to the Town by the 20th day following the month in which the tax is collected. Ordinance 831 clarifies that the lodger's tax shall be a lien on the vendor's property until paid and that failure to remit such amounts may result in certification of the delinquent amounts to the County Treasurer for collection with taxes. This certification assists in guaranteeing the Town receive the lodger's tax due.

Over the past years most vendors have been respectful in submitting their lodger's reports timely. Staff tries to be courteous but firm in collecting reports and taxes on time. Vendors who do not submit in a timely manner are penalized with late fees of 10% and interest of 1% of outstanding balance.

The changes to the municipal code give staff the ability to move forward with action should a property refuse to remit their lodgers tax to the Town.

ATTACHMENT(S):

Ordinance 831

FISCAL IMPACT

The Town will receive estimated lodgers tax, late fees and charges within one year of certifying the amount due to the County Treasurer.

RECOMMENDED ACTIONS

It is the recommendation of Town Clerk, by motion

APPROVE FIRST READING ORDINANCE 831, AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS AMENDING SECTION 16.4.9 OF THE PAGOSA SPRINGS MUNICIPAL CODE REGARDING ENFORCEMENT OF THE LODGERS' TAX

TOWN OF PAGOSA SPRINGS, COLORADO

ORDINANCE NO. 831
(SERIES 2015)

AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS AMENDING SECTION 16.4.9 OF THE PAGOSA SPRINGS MUNICIPAL CODE REGARDING ENFORCEMENT OF THE LODGERS' TAX

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 , April 23, 2013 and April 22, 2014 (the "Charter"); and

WHEREAS, pursuant to Section 16, Article 4 of the Pagosa Springs Municipal Code (the "Code"), the Town imposes a Lodgers' Tax; and

WHEREAS, the purpose of the Lodgers' Tax is to allow the Town to assist in the funding of services and facilities enjoyed by the visitors to the Town who reside in any lodging accommodations located in the Town or which are managed, contracted or leased by persons located within the Town, by imposing a tax to be collected by vendors furnishing lodging; and

WHEREAS, pursuant to Section 16.4.7 of the Code, it is the duty of the vendors to collect and remit the Lodgers' Tax to the Town; and

WHERAS, Section 16.4.9 of the Code provides for enforcement of the collection and remittance of the Lodgers' Tax to the Town; and

WHEREAS, pursuant to Sections 31-20-105 and 31-20-106, C.R.S., the Town may cause any or all delinquent charges, assessments, or taxes to be certified to the County Treasurer to be collected in the same manner as general taxes; and

WHEREAS, the Town Council wishes to clarify that the Lodgers' Tax shall be a lien on the vendor's property until paid and that failure to remit such amounts may result in certification of the delinquent amounts to the County Treasurer for collection with taxes.

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

1. Amendment of Section 16.4.9 of the Pagosa Springs Municipal Code. Section 16.4.9 of the Pagosa Springs Municipal Code is hereby amended to add new subsections 4 and 5, as follows:

Sec. 16.4.9. - Failure to Pay or Make Return; Remedial Action by Town.

(4) The Lodgers' Tax and the cost of collecting the Lodgers' Tax, if any, is a lien that is prior and superior to all other liens, claims, titles and encumbrances, whether prior in time or not, except for liens for general taxes, and remains a lien upon the vendor's property from the date that the Lodgers' Tax and collection costs, if any, are due until the time they are paid.

(5) The Town Clerk may, in addition to taking other collection remedies, certify due and unpaid Lodger's Tax amounts and collection charges to the Archuleta County Treasurer to be levied against the vendor's property for collection by the county in the same manner as delinquent general taxes upon such property are collected pursuant to Sections 31-20-105 and 31-20-106, C.R.S.

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

3. 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.

4. Effective date. This Ordinance shall become effective and be in force immediately upon final passage at second reading.

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 _____ DAY OF _____, 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 appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 831 (Series 2015) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the ____ day of _____, 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, and specifically, Section 1.3.3 which provides for a fine not exceeding $2,650 or incarceration not to exceed one year, or both, 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 appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 831 (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 _____, 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)

AGENDA DOCUMENTATION

NEW BUSINESS: V.6

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: JAMES DICKHOFF, PLANNING DEPARTMENT

PROJECT: A RECOMMENDATION FROM THE HISTORIC PRESERVATION BOARD FOR TOWN COUNCIL TO ENCOURAGE THE BOCC TO SOLICIT A HISTORIC ASSESSMENT FOR THE COUNTY COURTHOUSE BUILDING
ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND

Prompted by some recent flooding in the county jail facility, the BOCC has recently been considering possible options for the future of the current County Courthouse building and potential locations for future county department operations.

The Town's Historic Preservation Board has been discussing the matter at a number of meetings and work sessions, and on July 8, 2015, unanimously approved a letter of recommendation for the Town Council to encourage the BOCC to conduct a Historical Assessment for the County Courthouse from a qualified and experienced historic property surveyor and/or architect.

A historical assessment will provide the BOCC a greater knowledge of the historical nature and potential of the property as they consider the current issues and future planning for the courthouse, jail facilities and other county departments and services.

ATTACHMENT(S):

1) Letter of recommendation to Town Council from the HPB.

APPLICABILITY TO COMPREHENSIVE PLAN AND GOALS

Chapter 8 of the Comprehensive Plan reviews the importance of preserving our historic downtown, community and heritage.

1) Policy H-1(d) ***discourages demolitions of historic buildings.***
2) From the last paragraph of the Vision: ***"Historic Preservation of structures and other features in many communities demonstrates to have economic and cultural benefits. The Town aims to work with partners in the community, including the County, to preserve structures, landscapes and other aspects of it's history"***

APPLICABILITY TO DOWNTOWN MASTER PLAN AND GOALS

Chapter 3 of the Downtown Master Plan addresses the importance of Historic Resources.

1) Under Historic Resources: ***"Historic resources add interest to the Downtown area and may provide unique destinations for visitors. They also add to the distinct identity of Pagosa Springs and help new residents gain a sense of connection with the traditions of the community. Numerous historically significant buildings exist in the Downtown area and contribute to the character and image of the community. …… Efforts to preserve these structures should be supported by the Town."***
2) Under Principles: HR1: ***"Promote Preservation of Historic resources throughout the downtown".***
3) Appendix B Maps: The Historic Resource Map identifies the County Courthouse as a Historic Resource.

RECOMMENDATION

It is the recommendation of the Historic Preservation Board that the Town Council by motion;

"Approve submitting a recommendation to the BOCC to conduct a professional "Historical Assessment" of the County Courthouse property and building to ensure the information is available to them and the community for consideration during decisions regarding the future of the courthouse property."

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

June 30, 2015

Letter to the Town Council
c/o Town Manager and/or Planning Department Director
551 Hot Springs Boulevard
Pagosa Springs, CO 81147

Dear Town Council Members,

The Historic Preservation Board of the Town of Pagosa Springs would like to express its concerns with the Archuleta County Courthouse located at 449 San Juan Street. It is our understanding that the Archuleta County Commissioners requested an assessment for the condition of the Courthouse; however, to the best of our knowledge, it did not include a Historical Assessment.

The Courthouse building is a prominent downtown structure with substantial Pagosa Springs history. Eighty-eight (88) years ago, in 1927, Jay Catchpole approached the Archuleta County Commission and suggested the County purchase the old First National Bank building along with the adjoining lot to construct a courthouse. The property was purchased for 5,000 dollars and in 1929 the county moved into its new offices. The building has operated as the Archuleta County Courthouse since 1929 and utilizes a geothermal well behind the building.

The Historical Preservation Board would like to request the Town Council's support in its position and request that the County Commissioners request a Historical Assessment from an appropriate, qualified and experienced historic surveyor and/or architect. It is the Board's position that the Historical Assessment will provide the County Commissioners and the greater Pagosa Springs community with valuable insight about the condition of the building and provide suggestions for renovations and adaptive reuse should the County vacate the building.

Respectfully,
For the Historic Preservation Board

Peggy Bergon

/s/ Peggy Bergon
Vice Chairperson

AGENDA DOCUMENTATION

NEW BUSINESS:V.7

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: GREGORY J. SCHULTE, TOWN MANAGER

PROJECT: SUPPORT FOR ARCHULETA COUNTY NOTICE OF INTENT FOR A NOVEMBER 2015 BALLOT MEASURE
ACTION: DISCUSSION AND POSSIBLE ACTION

BACKGROUND / ANALYSIS

In 2005, the Colorado legislature passed Senate Bill 152, now codified at 29-27-101 to 304, C.R.S., which generally requires an election before a local government can provide internet, cable TV, or telecommunications service to the public. The effect of S.B. 152 is that municipalities and counties are prohibited from providing services such as free Wi-Fi hot spots, directly providing broadband as a utility, or entering into public private partnerships to provide such services. The statute does include some exceptions to the election requirement, including leasing of space on government property for the placement of equipment by private service providers; providing telecommunication services for use by people accessing government services; providing telecommunication services to its own buildings and facilities; and operating internal communications networks. An example of how S.B. 152 currently impacts the Town is that it limits the potential uses of the fiber optic SCAN Network that the Town owns with the County.

There has been considerable movement on behalf of municipalities and counties to opt out of the restrictions of SB 152 and return to the status the local governments enjoyed prior to 2005. Both Archuleta County and Town representatives attended a forum on SB 153 sponsored by the Southwestern Colorado Council of Governments (SWCCOG) in June to receive information on SB 152 and the experience of other jurisdictions in conducting elections to opt out of the 152 restrictions.

To date, 10 municipalities and 3 counties have opted out of the SB 152 restrictions and many more are contemplating placing ballot questions on upcoming elections. We received indications that the City of Durango, La Plata County, and Silverton are all planning on placing an opt out question on the November 2015 ballot. Further, at the time of this writing, we've been notified that Archuleta County plans to formally notify the County Clerk of their intent to place an opt out question on the November 2015 ballot.

The county has requested support from the Town of Pagosa Springs in proceeding with an opt out ballot question and invites the Town to join them in placing the ballot question on either the November 2015 or April 2016 ballot, whichever is more appropriate.

Support recommends the Town Council proceed with this effort.

ATTACHMENT(S)

- Memorandum from Town Legal Counsel (privileged)
- Joint SB 152 Memorandum from Colorado Municipal League (CML) and Colorado Counties, Inc. (CCI)

RECOMMENDATION

Possible motions by Town Council include:

1. "Move to Support Archuleta County's Action to notify the County Clerk of their intent to place a Question on the November 2015 ballot regarding Opting Out of the SB 152 Restrictions and to direct staff to Take Steps to place a like Measure in Coordination with the County."

2. "MOVE TO Not SUPPORT ARCHULETA COUNTY'S ACTION TO NOTIFY THE COUNTY CLERK OF THEIR INTENT TO PLACE A QUESTION ON THE NOVEMBER 2015 BALLOT REGARDING OPTING OUT OF THE SB 152 RESTRICTIONS."

3. Direct Staff

To: County Commissioners, Municipal Elected Officials, and Staff

From: Geoff Wilson, General Counsel, CML
Eric Bergman, Policy Director, CCI

Date: July 2, 2015

Re: Materials on SB 152 elections

Introduction

In order to compete in today's economy, communities across the state have become increasingly dependent on broad bandwidth Internet access ("broadband") for business development and operations. The availability of broadband also enhances the quality of life and desirability of a community by providing residents access to things like online education and distance learning opportunities, telemedicine and entertainment content (movies, music, etc.). Broadband has become so critical, in fact, that many now regard it as a basic infrastructure need - on par with roads, water systems and energy grids.

Unfortunately, numerous communities across Colorado still lack adequate broadband service. The reasons vary, but more often than not these areas are too sparsely populated, too remote or in regions where the topography (mountainous terrain, etc.) makes expanding service difficult and expensive for telecommunication providers. These communities are "upside down" from a business model standpoint, and providers are unable or unwilling to connect these areas, leaving them at an economic disadvantage from their more urbanized neighbors.

While local governments often play a direct role in economic development efforts, cities and counties historically have not been directly involved in the delivery of retail telecommunication services. However, the increasing demand for broadband service – often driven by economic development concerns - has forced many local government officials to reexamine their role in the provision of broadband services.

In the last few years, a growing number of local governments have started looking at investing public dollars in broadband infrastructure improvements (usually fiber optic cable lines or cell towers) in order to attract Internet providers and enhance economic development efforts in their region. The Department of Local Affairs has also heard these community concerns, and this year expanded its existing broadband planning grant program to include funds for local government investments in "middle mile" broadband infrastructure.

SB 152 and Statutory Prohibitions on Local Government Broadband Infrastructure

One of the biggest impediments to local governments enhancing broadband infrastructure is a law passed in 2005, which has since been commonly referred to as "Senate Bill (SB) 152" (SB05-152, attached to this memorandum and codified at sections 29-27-101-304, C.R.S.). SB 152 prohibits most uses of municipal or county money for infrastructure to improve local broadband service, without first going to a vote of the people. The hurdles put in place by this statute are not insurmountable; indeed, in the past few years ten municipalities and three counties have placed measures on the ballot to override the prohibitions in SB 152. These measures have passed handily in virtually every jurisdiction - with the support of citizens who are frustrated and want timely action on broadband service in their communities.

Continued dissatisfaction over a lack of adequate broadband is resulting in more and more jurisdictions considering going to the ballot with SB 152 questions. Late in 2014, CML and CCI began meeting with local government officials, economic development professionals and telecommunication experts from jurisdictions whose voters had approved SB 152 questions at the ballot. One outcome of these conversations is the development of this memorandum and materials designed to help interested local government officials and staff to frame the issue and consider the impacts of preparing their own ballot questions.

SB 152 Frequently Asked Questions (FAQ's)

What does a SB 152 election accomplish?

SB 152 requires that an election be held before a local government may "engage or offer to engage in providing" various telecommunication services. The term "providing" is given an expansive definition in the statute, which restricts both the direct and "indirect" provision of service ("indirect", in turn, is given its own, broadly restrictive definition). Fortunately, through a successful SB 152 election, a local community can clear away this legal impediment to a wide variety of local broadband initiatives.

It is important to point out that the vast majority of local governments who have passed SB 152 questions (or are considering going to the ballot in the near future) are **not** interested in hooking up homes and businesses and providing actual broadband services themselves. By and large, these jurisdictions are working to enhance local broadband infrastructure in order to *attract* service providers who would otherwise be unwilling or unable to serve their communities. The local broadband initiatives in the jurisdictions passing SB 152 questions to date usually involve some form of public-private partnerships between local governments, economic development agencies and the industry.

Is referring a SB 152 question to the ballot expensive?

No more so than any other referred measure. Most jurisdictions have referred their questions when the municipality or county was *already* having an election. Accordingly, the addition of the SB 152 issue did not significantly increase costs. In a coordinated election, a particular jurisdiction's costs would be affected by the terms of the IGA regarding election cost allocation between the county and participating local governments.

What sort of election specifics does SB 152 require?

Not many. SB 152 specifies four requirements for ballot questions in a SB 152 election. (See: C.R.S. § 29-27-201(2))

The ballot:

(1) Shall pose the question as a "single subject",
(2) Shall include a description of the "nature of the proposed service,"
(3) Shall include a description of "the role that the local government will have in the provision of the service," and
(4) Shall include a description of the "intended subscribers of such service."

How have other jurisdictions addressed these requirements?

A review of the ballot questions put forth by local governments so far (included below) shows a clear preference for broad "anything and everything" type authority. Industry representatives have complained from time to time that such local ballot language has lacked the specificity required by the statute. This notion has never been tested in court. One might also argue that a "broad authority" question that describes the nature of the service proposed, along with potential future build-outs or applications, is not fatally flawed by its inclusion of the latter. Furthermore, courts have been traditionally hesitant to reverse the will of the voters, if evident. Obviously, the development of local SB 152 ballot language should be done in close consultation with legal counsel.

What about the "single subject" requirement?

The term "single subject" is not defined in SB 152. Nonetheless, the ballot questions submitted by local governments thus far seem comfortably within the single subject standard applied to statewide *ballot initiatives,* in cases such as In the Matter Of The Ballot Title and Submission Clause for 2013-2014 #129, 333 P.3d 101 (Colo. 2014). Local government officials are urged to consult with legal counsel.

Are there any additional election requirements that distinguish a SB 152 question from other matters routinely referred to the ballot by a county or municipality?

No (but again, please confer with your legal counsel). As always, attention should be paid to the requirements of the Fair Campaign Practices Act (Section 1-45-117, C.R.S.), which forbids use of public funds for advocacy in elections. This restriction is a prudent consideration in planning any campaign for a successful SB 152 election.

Does voter approval of a county SB 152 ballot question have the effect of authorizing the provision of such services by municipalities within that county?

No. SB 152 requires voter approval by each jurisdiction participating in the provision of covered services.

Does a jurisdiction need to approve a SB 152 ballot question in order to qualify for broadband infrastructure grant funds from the Department of Local Affairs (DOLA)?

It depends. DOLA's broadband grant program provides funding for regional planning and "middle mile" infrastructure projects (i.e., projects that do not provide "last mile" connections to customers). The guidance in DOLA's broadband grant policies suggests that each jurisdiction must determine whether it is in compliance with the statutory restrictions set forth in SB 152. DOLA requires any grantee to be in compliance with any applicable laws and regulations. DOLA itself will not make that determination, nor does the awarding of a grant confer any certainty or acknowledgment of compliance on DOLA's part to the grantee. DOLA's broadband grant policy guidelines can be found at: http://dola.colorado.gov/demog-cms/content/dola-broadband-program.

The broadband landscape in Colorado is changing rapidly, and local government policies regarding broadband and economic development will need to evolve to keep pace with this change. CCI and CML will be providing additional research and guidance over the course of the year on this important policy issue. If your jurisdiction is moving forward on a SB 152 ballot question, please notify either CCI or CML. If you have additional questions or comments, please contact Geoff Wilson at CML at 303.831.6411 (e-mail: gwilson@cml.org) or Eric Bergman at CCI at 303.861.4076 (e-mail:ebergman@ccionline.org).

Sample Local Government Ballot Language for SB 152 Elections

County Questions

Rio Blanco County (Passed Fall 2014)
"Without increasing taxes, shall the citizens of Rio Blanco County, Colorado, authorize the Board of County Commissioners of Rio Blanco County, Colorado, to provide to potential subscribers including telecommunications service providers, residential and commercial users within Rio Blanco County, all services restricted since 2005 by Title 29, article 27 of the Colorado Revised Statutes, including "telecommunication services," "cable television services," and "advanced services" which is defined as high speed internet access capability in excess of two hundred fifty six kilobits per second both upstream and downstream (known as "broadband") including any new and improved bandwidth services based on future technologies, utilizing the existing community owned fiber optic network and/or developing additional infrastructure, either directly or indirectly with public or private sector partners?"

San Miguel County (Passed Fall 2014)
"Without increasing taxes, shall San Miguel County, Colorado, have the legal ability to provide any or all services currently restricted by Title 29, article 27, Part 1, of the Colorado Revised Statutes, specifically described as "advanced services," "telecommunication services," and "cable television services," as defined by the statute, including, but not limited to, any new and improved high bandwidth services based on future technologies, utilizing community owned infrastructure including but not limited to any existing fiber optic network, either directly, or indirectly with public or private sector service providers, to potential subscribers that may include telecommunications service providers, and residential or commercial users within San Miguel County?"

Yuma County (Passed Fall 2014)
"Without increasing taxes, shall the citizens of Yuma County Colorado re-establish their counties' right to provide all services and facilities restricted since 2005 by Title 29, Article 27 of the Colorado Revised Statutes, described as "Advanced Services," "Telecommunication Services," and "Cable Television Services," including providing any new and improved broadband services and facilities based on future technologies, utilizing existing or new community owned infrastructure including but not limited to the existing fiber optic network, either directly or indirectly with public or private sector partners, to potential subscribers that may include telecommunications service providers, residential or commercial users within the boundaries of Yuma County?"

Municipal Questions

SPRING 2015		
GRAND JUNCTION	CITY OF GRAND JUNCTION REFERRED MEASURE 2A SHALL THE CITY OF GRAND JUNCTION, WITHOUT INCREASING TAXES BY THIS MEASURE, BE AUTHORIZED TO PROVIDE, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNER(S), HIGH-SPEED INTERNET SERVICES (ADVANCED SERVICE), TELECOMMUNICATIONS SERVICES ANDIOR CABLE TELEVISION SERVICES AS DEFINED BY § 29-27-101 TO 304 OF THE COLORADO REVISED STATUTES, INCLUDING BUT NOT LIMITED TO ANY NEW AND IMPROVED HIGH BANDWIDTH SERVICE(S) BASED ON FUTURE TECHNOLOGIES, TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NONPROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES, WITHOUT LIMITING ITS HOME RULE AUTHORITY?	PASS, 75%-22%

ESTES PARK	WITHOUT INCREASING TAXES, SHALL THE TOWN OF ESTES PARK REESTABLISH THE TOWN'S RIGHT TO PROVIDE ALL SERVICES RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCED SERVICES," "TELECOMMUNICATIONS SERVICES" AND "CABLE TELEVISION SERVICES," INCLUDING ANY NEW AND IMPROVED HIGH BANDWIDTH SERVICES BASED ON FUTURE TECHNOLOGIES, UTILIZING COMMUNITY OWNED INFRASTRUCTURE INCLUDING, BUT NOT LIMITED TO THE EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS TO POTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS, RESIDENTIAL OR COMMERCIAL USERS WITHIN THE TOWN AND THE SERVICE AREA OF THE TOWN'S LIGHT AND POWER ENTERPRISE?	PASS, YES: 1652 NO: 136
FALL 2014		
BOULDER	SHALL THE CITY OF BOULDER BE AUTHORIZED TO PROVIDE HIGH-SPEED INTERNET SERVICES (ADVANCED SERVICES), TELECOMMUNICATIONS SERVICES, AND/OR CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NONPROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, AS EXPRESSLY PERMITTED BY §§ 29-27-101 TO 304, “COMPETITION IN UTILITY AND ENTERTAINMENT SERVICES,” OF THE COLORADO REVISED STATUTES, WITHOUT LIMITING ITS HOME RULE AUTHORITY?	PASS, 17512-3551
CHERRY HILLS VILLAGE	SHALL THE CITY OF CHERRY HILLS VILLAGE, WITHOUT INCREASING TAXES BY THIS MEASURE, AND TO RESTORE LOCAL AUTHORITY THAT WAS DENIED TO LOCAL GOVERNMENTS BY THE COLORADO GENERAL ASSEMBLY AND FOSTER A MORE COMPETITIVE MARKETPLACE, BE AUTHORIZED TO PROVIDE HIGH-SPEED INTERNET, INCLUDING IMPROVED HIGH BANDWIDTH SERVICES BASED ON NEW TECHNOLOGIES, TELECOMMUNICATIONS SERVICES, AND/OR CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NON-PROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, AS EXPRESSLY PERMITTED BY ARTICLE 27, TITLE 29 OF THE COLORADO REVISED STATUTES?	PASS, 2362-613
RED CLIFF	SHALL THE TOWN OF RED CLIFF BE AUTHORIZED TO PROVIDE CABLE TELEVISION, TELECOMMUNICATIONS AND/OR HI-SPEED INTERNET SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NONPROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES, EITHER DIRECTLY OR INDIRECTLY THROUGH PUBLIC OR PRIVATE SECTOR PARTNERS?	PASS, 56-24
WRAY	WITHOUT INCREASING TAXES, SHALL TH CITIZENS OF WRAY, COLORADO RE-ESTABLISH THEIR CITY'S RIGHTS TO PROVIDE ALL SERVICES AND FACILITIES RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCED SERVICES,' TELECOMMUNICATIONS SERVICES' AND 'CABLE TELEVISION SERVICES,' INCLUIDNG PROVIDING ANY NEW AND IMPROVED BROADBAND SERVICES AND FACILITIES BASED ON FUTURE TECHONOLOGIES, UTILIZING EXISTING OR NEW COMMUNITIY OWNED INFRASTRUCTURE INCLUDING BUT NOT LIMITED TO THE EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, TO POTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS, RESIDENTIAL OR COMMERICAL USERS WITHIN THE CITY?	PASS 3167-2461

YUMA	WITHOUT INCREASING TAXES, SHALL TH CITIZENS OF YUMA, COLORADO RE-ESTABLISH THEIR CITY'S RIGHTS TO PROVIDE ALL SERVICES AND FACILITIES RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCED SERVICES,' TELECOMMUNICATIONS SERVICES' AND 'CABLE TELEVISION SERVICES,' INCLUIDNG PROVIDING ANY NEW AND IMPROVED BROADBAND SERVICES AND FACILITIES BASED ON FUTURE TECHONOLOGIES, UTILIZING EXISTING OR NEW COMMUNITIY OWNED INFRASTRUCTURE INCLUDING BUT NOT LIMITED TO THE EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, TO POTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS, RESIDENTIAL OR COMMERICAL USERS WITHIN THE CITY'S UTILITY SERVICE AREA?	PASS, 71%-29%
SPRING 2014		
MONTROSE	REFERRED MEASURE "A" WITHOUT INCREASING TAXES, SHALL THE CITIZENS OFTHE CITY OF MONTROSE, COLORADO, RE-ESTABLISH THEIR CITY'S RIGHT TO PROVIDE ALL SERVICES RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OFTHE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCED SERVICES," "TELECOMMUNICATIONS SERVICES" AND "CABLE TELEVISION SERVICES," INCLUDING ANY NEW AND IMPROVED HIGH BANDWIDTH SERVICES BASED ON FUTURE TECHNOLOGIES, UTILIZING COMMUNITY OWNED INFRASTRUCTURE INCLUDING BUT NOT LIMITED TO THE EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, TO POTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS, RESIDENTIAL OR COMMERCIAL USERS WITHIN THE CITY?	PASS 3969-1396
FALL 2013		
CENTENNIAL	BALLOT QUESTION 2G SHALL THE CITY OF CENTENNIAL, WITHOUT INCREASING TAXES, AND TO RESTORE LOCAL AUTHORITY THAT WAS DENIED TO ALL LOCAL GOVERNMENTS BY THE STATE LEGISLATURE, AND TO FOSTER A MORE COMPETITIVE MARKETPLACE, BE AUTHORIZED TO INDIRECTLY PROVIDE HIGHSPEED INTERNET (ADVANCED SERVICES), TELECOMMUNICATIONS SERVICES, AND/OR CABLE TELEVISION SERVICES TO RESIDENTS, BUSINESSES, SCHOOLS, LIBRARIES, NONPROFIT ENTITIES AND OTHER USERS OF SUCH SERVICES, THROUGH COMPETITIVE AND NON-EXCLUSIVE PARTNERSHIPS WITH PRIVATE BUSINESSES, AS EXPRESSLY PERMITTED BY ARTICLE 29, TITLE 27 OF THE COLORADO REVISED STATUTES?	PASS 76%-24%
FALL 2011		
LONGMONT	BALLOT QUESTION 2A: WITHOUT INCREASING TAXES, SHALL THE CITIZENS OF THE CITY OF LONGMONT, COLORADO, RE-ESTABLISH THEIR CITY'S RIGHT TO PROVIDE ALLSERVICES RESTRICTED SINCE 2005 BY TITLE 29, ARTICLE 27 OF THE COLORADO REVISED STATUTES, DESCRIBED AS "ADVANCES SERVICES," "TELECOMMUNICATIONS SERVICES" AND "CABLE TELEVISION SERVICES," INCLUDING ANY NEW AND IMPROVED HIGH BANDWIDTH SERVICES BASED ON FUTURE TECHNOLOGIES, UTILIZING COMMUNITY OWNED INFRASTRUCTURE INCLUDING BUT NOT LIMITED TO THE EXISTING FIBER OPTIC NETWORK, EITHER DIRECTLY OR INDIRECTLY WITH PUBLIC OR PRIVATE SECTOR PARTNERS, TO PROTENTIAL SUBSCRIBERS THAT MAY INCLUDE TELECOMMUNICATIONS SERVICE PROVIDERS, RESIDENTIAL OR COMMERCIAL USERS WITHIN THE CITY AND THE SERVICE AREA OF THE CITY'S ELECTIC UTILITY ENTERPRISE? Y/N	PASS: YES 60.82% (13238), NO 39.18% (8529)

FALL 2009		
LONGMONT	BALLOT ISSUE 2C-- AUTHORIZATION TO ALLOW THE CITY TO PROVIDE TELECOMMUNICATIONS SERVICES, ADVANCED SERVICES AND CABLE TELEVISION SERVICES TO RESIDENTIAL AND COMMERCIAL USERS WITHIN THE SERVICE AREA OF THE CITY'S ELECTRIC UTILITY ENTERPRISE	FAIL, YES 44%, NO 56%

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 05-152

BY SENATOR(S) Veiga, and Mitchell;
also REPRESENTATIVE(S) Jahn, Crane, Harvey, Kerr, and Sullivan.

CONCERNING LOCAL GOVERNMENT COMPETITION IN THE PROVISION OF SPECIFIED COMMUNICATIONS SERVICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 27
Competition in Utility and Entertainment Services

PART 1
COMPETITION IN UTILITY AND ENTERTAINMENT SERVICES

29-27-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS THE POLICY OF THIS STATE TO ENSURE THAT CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND HIGH SPEED INTERNET ACCESS, OTHERWISE KNOWN AS ADVANCED SERVICE, ARE EACH PROVIDED WITHIN A CONSISTENT, COMPREHENSIVE, AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

NONDISCRIMINATORY FEDERAL, STATE, AND LOCAL GOVERNMENT FRAMEWORK.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT:

(a) THERE IS A NEED FOR STATEWIDE UNIFORMITY IN THE REGULATION OF ALL PUBLIC AND PRIVATE ENTITIES THAT PROVIDE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND ADVANCED SERVICE.

(b) MUNICIPAL ORDINANCES, RULES, AND OTHER REGULATIONS GOVERNING THE PROVISION OF CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND ADVANCED SERVICE BY A LOCAL GOVERNMENT IMPACT PERSONS LIVING OUTSIDE THE MUNICIPALITY.

(c) REGULATING THE PROVISION OF CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND ADVANCED SERVICE BY A LOCAL GOVERNMENT IS A MATTER OF STATEWIDE CONCERN.

29-27-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADVANCED SERVICE" MEANS HIGH-SPEED INTERNET ACCESS CAPABILITY IN EXCESS OF TWO HUNDRED FIFTY-SIX KILOBITS PER SECOND BOTH UPSTREAM AND DOWNSTREAM.

(2) "CABLE TELEVISION SERVICE" MEANS THE ONE-WAY TRANSMISSION TO SUBSCRIBERS OF VIDEO PROGRAMMING OR OTHER PROGRAMMING SERVICE, AS WELL AS SUBSCRIBER INTERACTION, IF ANY, THAT IS REQUIRED FOR THE SELECTION OR USE OF THE VIDEO PROGRAMMING OR OTHER PROGRAMMING SERVICE.

(3) "LOCAL GOVERNMENT" MEANS ANY CITY, COUNTY, CITY AND COUNTY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

(4) "PRIVATE PROVIDER" MEANS A PRIVATE ENTITY THAT PROVIDES CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE.

(5) "SUBSCRIBER" MEANS A PERSON THAT LAWFULLY RECEIVES

CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE. A PERSON THAT UTILIZES CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE PROVIDED BY A LOCAL GOVERNMENT FOR LOCAL GOVERNMENTAL OR INTERGOVERNMENTAL PURPOSES AND IS USED BY PERSONS ACCESSING GOVERNMENT SERVICES IS NOT A SUBSCRIBER FOR PURPOSES OF THIS ARTICLE.

(6) "TELECOMMUNICATIONS SERVICE" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-15-102 (29), C.R.S.

29-27-103. Limitations on providing cable television, telecommunications, and advanced services. (1) EXCEPT AS PROVIDED IN THIS ARTICLE, A LOCAL GOVERNMENT SHALL NOT:

(a) PROVIDE TO ONE OR MORE SUBSCRIBERS CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE; OR

(b) PURCHASE, LEASE, CONSTRUCT, MAINTAIN, OR OPERATE ANY FACILITY FOR THE PURPOSE OF PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE TO ONE OR MORE SUBSCRIBERS.

(2) FOR PURPOSES OF THIS ARTICLE, A LOCAL GOVERNMENT PROVIDES CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE IF THE LOCAL GOVERNMENT PROVIDES THE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE TO ONE OR MORE SUBSCRIBERS:

(a) DIRECTLY;

(b) INDIRECTLY BY MEANS THAT INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:

(I) THROUGH AN AUTHORITY OR INSTRUMENTALITY ACTING ON BEHALF OF THE LOCAL GOVERNMENT OR FOR THE BENEFIT OF THE LOCAL GOVERNMENT BY ITSELF;

(II) THROUGH A PARTNERSHIP OR JOINT VENTURE;

(III) THROUGH A SALE AND LEASEBACK ARRANGEMENT;

(c) BY CONTRACT, INCLUDING A CONTRACT WHEREBY THE LOCAL GOVERNMENT LEASES, SELLS CAPACITY IN, OR GRANTS OTHER SIMILAR RIGHTS TO A PRIVATE PROVIDER TO USE LOCAL GOVERNMENTAL FACILITIES DESIGNED OR CONSTRUCTED TO PROVIDE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE FOR INTERNAL LOCAL GOVERNMENT PURPOSES IN CONNECTION WITH A PRIVATE PROVIDER'S OFFERING OF CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE; OR

(d) THROUGH SALE OR PURCHASE OF RESALE OR WHOLESALE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE FOR THE PURPOSE OF PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE TO ONE OR MORE SUBSCRIBERS.

(3) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF A LOCAL GOVERNMENT TO LEASE TO A PRIVATE PROVIDER PHYSICAL SPACE IN OR ON ITS PROPERTY FOR THE PLACEMENT OF EQUIPMENT OR FACILITIES THE PRIVATE PROVIDER USES TO PROVIDE CABLE TELEVISION, TELECOMMUNICATIONS, OR ADVANCED SERVICES.

PART 2
CONDITIONS FOR PROVIDING SERVICES

29-27-201. Vote - referendum. (1) BEFORE A LOCAL GOVERNMENT MAY ENGAGE OR OFFER TO ENGAGE IN PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE, AN ELECTION SHALL BE CALLED ON WHETHER OR NOT THE LOCAL GOVERNMENT SHALL PROVIDE THE PROPOSED CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE.

(2) THE BALLOT AT AN ELECTION CONDUCTED PURSUANT TO THIS SECTION SHALL POSE THE QUESTION AS A SINGLE SUBJECT AND SHALL INCLUDE A DESCRIPTION OF THE NATURE OF THE PROPOSED SERVICE, THE ROLE THAT THE LOCAL GOVERNMENT WILL HAVE IN PROVISION OF THE SERVICE, AND THE INTENDED SUBSCRIBERS OF SUCH SERVICE. THE BALLOT PROPOSITION SHALL NOT TAKE EFFECT UNTIL SUBMITTED TO THE ELECTORS AND APPROVED BY THE MAJORITY OF THOSE VOTING ON THE BALLOT.

29-27-202. Exemption for unserved areas. (1) A LOCAL GOVERNMENT SHALL BE EXEMPT FROM THE REQUIREMENTS OF THIS PART 2

AND MAY ENGAGE OR OFFER TO ENGAGE IN PROVIDING CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCE SERVICE IF:

(a) NO PRIVATE PROVIDER OF CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE PROVIDES THE SERVICE ANYWHERE WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT;

(b) THE GOVERNING BODY OF THE LOCAL GOVERNMENT HAS SUBMITTED A WRITTEN REQUEST TO PROVIDE THE SERVICE TO ANY INCUMBENT PROVIDER OF CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE WITHIN THE BOUNDARIES OF THE LOCAL GOVERNMENT; AND

(c) THE INCUMBENT PROVIDER HAS NOT AGREED WITHIN SIXTY DAYS OF THE RECEIPT OF A REQUEST SUBMITTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (1) TO PROVIDE THE SERVICE OR, IF THE PROVIDER HAS AGREED, IT HAS NOT COMMENCED PROVIDING THE SERVICE WITHIN FOURTEEN MONTHS OF THE RECEIPT OF THE REQUEST.

PART 3
COMPLIANCE WITH LOCAL, STATE, AND FEDERAL REGULATIONS

29-27-301. General operating limitations. (1) A LOCAL GOVERNMENT THAT PROVIDES CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE UNDER THIS ARTICLE SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS, RULES, AND REGULATIONS GOVERNING PROVISION OF SUCH SERVICE BY A PRIVATE PROVIDER; EXCEPT THAT NOTHING HEREIN SHALL BE CONSTRUED TO AFFECT THE JURISDICTION OF THE PUBLIC UTILITIES COMMISSION WITH RESPECT TO MUNICIPAL UTILITIES.

(2) (a) A LOCAL GOVERNMENT SHALL NOT MAKE OR GRANT ANY UNDUE OR UNREASONABLE PREFERENCE OR ADVANTAGE TO ITSELF OR TO ANY PRIVATE PROVIDER OF CABLE TELEVISION SERVICES, TELECOMMUNICATIONS SERVICES, OR ADVANCED SERVICES.

(b) A LOCAL GOVERNMENT SHALL APPLY WITHOUT DISCRIMINATION AS TO ITSELF AND TO ANY PRIVATE PROVIDER THE LOCAL GOVERNMENT'S ORDINANCES, RULES, AND POLICIES, INCLUDING THOSE RELATING TO:

(I) OBLIGATION TO SERVE;

(II) ACCESS TO PUBLIC RIGHTS-OF-WAY;

(III) PERMITTING;

(IV) PERFORMANCE BONDING WHERE AN ENTITY OTHER THAN THE LOCAL GOVERNMENT IS PERFORMING THE WORK;

(V) REPORTING; AND

(VI) QUALITY OF SERVICE.

29-27-302. Scope of article. (1) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO AUTHORIZE ANY LOCAL GOVERNMENT TO:

(a) PROVIDE, DIRECTLY OR INDIRECTLY, CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE; OR

(b) PURCHASE, LEASE, CONSTRUCT, MAINTAIN, OR OPERATE A FACILITY FOR THE PURPOSE OF PROVIDING, DIRECTLY OR INDIRECTLY, CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE.

(2) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO APPLY TO A LOCAL GOVERNMENT PURCHASING, LEASING, CONSTRUCTING, MAINTAINING, OR OPERATING FACILITIES THAT ARE DESIGNED TO PROVIDE CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, OR ADVANCED SERVICE THAT THE LOCAL GOVERNMENT USES FOR INTERNAL OR INTERGOVERNMENTAL PURPOSES.

(3) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO APPLY TO THE SALE OR LEASE BY A LOCAL GOVERNMENT TO PRIVATE PROVIDERS OF EXCESS CAPACITY, PROVIDED:

(a) SUCH EXCESS CAPACITY IS INSUBSTANTIAL IN RELATION TO THE CAPACITY UTILIZED BY THE LOCAL GOVERNMENT FOR ITS OWN PURPOSES; AND

(b) THE OPPORTUNITY TO PURCHASE AND THE OPPORTUNITY TO USE SUCH EXCESS CAPACITY IS MADE AVAILABLE TO ANY PRIVATE PROVIDER IN

A NONDISCRIMINATORY, NONEXCLUSIVE, AND COMPETITIVELY NEUTRAL MANNER.

(4) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT EITHER THE AUTHORITY OF THE STATEWIDE INTERNET PORTAL AUTHORITY CREATED IN SECTION 24-37.7-102, C.R.S., TO CARRY OUT ITS MISSION OR TO INTEGRATE THE ELECTRONIC INFORMATION DELIVERY SYSTEMS OF LOCAL GOVERNMENTS INTO THE STATEWIDE INTERNET PORTAL AS DEFINED IN ARTICLE 37.7 OF TITLE 24, C.R.S.

29-27-303. Enforcement and appeal. (1) BEFORE AN INDIVIDUAL SUBSCRIBER OR A PRIVATE PROVIDER THAT COMPETES WITH A LOCAL GOVERNMENT IN THE GEOGRAPHIC BOUNDARIES OF THE LOCAL GOVERNMENT MAY FILE AN ACTION IN DISTRICT COURT FOR VIOLATION OF THIS ARTICLE, THAT PERSON SHALL FILE A WRITTEN COMPLAINT WITH THE LOCAL GOVERNMENT. THE FAILURE BY THE LOCAL GOVERNMENT TO ISSUE A FINAL DECISION REGARDING THE COMPLAINT WITHIN FORTY-FIVE DAYS SHALL BE TREATED AS AN ADVERSE DECISION FOR PURPOSES OF APPEAL.

(2) AN APPEAL OF AN ADVERSE DECISION FROM THE LOCAL GOVERNMENT MAY BE TAKEN TO THE DISTRICT COURT FOR A DE NOVO PROCEEDING.

29-27-304. Applicability. THIS ARTICLE SHALL APPLY TO CABLE TELEVISION SERVICE, TELECOMMUNICATIONS SERVICE, AND ADVANCED SERVICE AND TO THE PURCHASE, LEASE, CONSTRUCTION, MAINTENANCE, OR OPERATION OF ANY FACILITY FOR THE PURPOSE OF PROVIDING SUCH SERVICE, FOR WHICH A LOCAL GOVERNMENT HAS NOT ENTERED INTO AN AGREEMENT OR OTHERWISE TAKEN ANY SUBSTANTIAL ACTION PRIOR TO MARCH 1, 2005, TO PROVIDE SUCH SERVICE OR PURCHASE, LEASE, CONSTRUCT, MAINTAIN, OR OPERATE SUCH FACILITIES.

SECTION 2. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Joan Fitz-Gerald PRESIDENT OF THE SENATE	Andrew Romanoff SPEAKER OF THE HOUSE OF REPRESENTATIVES
Karen Goldman SECRETARY OF THE SENATE	Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED_____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO

AGENDA DOCUMENTATION

NEW BUSINESS:V.8

PAGOSA SPRINGS TOWN COUNCIL
JULY 23, 2015

FROM: COUNCIL MEMBER C.K. PATEL

PROJECT: REQUEST FOR A LEAVE OF ABSENCE FOR COUNCIL MEMBER PATEL FOR A PERIOD OF TWO MONTHS.

ACTION: DISCUSSION AND POSSIBLE ACTION

PURPOSE/BACKGROUND:

Due to personal and business demands, Council Member Patel is requesting an excused Leave of Absence for a period of 2 months beginning the Council meeting of July 23, 2015 and extending through the Council meeting of September 17, 2015.

RELEVANT TOWN CHARTER SECTION(S):

Section 2.8 Vacancies

A) A vacancy in the office of Mayor or Council Member shall exist if during the term of office the Mayor or a Council Member:

6) Has had three (3) consecutive unexcused absences from regular or special Council meetings or misses more than twenty-five percent (25%) of regular or special Council Meetings in any twelve month period. An absence from a regular or special Council meeting shall be considered unexcused only if the Council so determines, at the next regular or special meeting by motion setting forth the reasons for the determination. The third consecutive unexcused absence shall be deemed to constitute a vacancy in the office effective on the date of the Council determination that such absence was unexcused.

ATTACHMENT(S):

- Letter of Request from Council Member Patel

RECOMMENDATION:

Possible actions by the Town Council include:

1. **"Move to approve a 2 month excused absence by Council Member C.K. Patel beginning with the Town Council Meeting of July 23, 2015 and extending through the Council Meeting of September 17, 2015."**

2. **"Move to disprove a 2 month excused absence by Council Member C.K. Patel."**

Chirag Patel
3505 W. Hwy 160
Pagosa Springs CO 81147

July 20, 2015

Dear Mayor and Town Council:

It is with a heavy heart that I tender this letter requesting leave of absence for two months, effective immediately.

I am grateful for having had the opportunity to serve the people of Pagosa Springs on this Council but feel that I will not be able to continue to do that at the same level until my business issues are resolve. If you feel that this leave of absence is not acceptable please let me know and I can submit a letter of resignation. I offer my best wishes for your continued success.

Sincerely,

Chirag Patel

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

PAGOSA SPRINGS SANITATION GENERAL IMPROVEMENT DISTRICT SPECIAL MEETING AGENDA
THURSDAY, JULY 23, 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 July 7, 2015 Meeting Minutes**
2. **Approval of June Financial Statement and Accompanying Payments**

V. REPORTS TO BOARD
1. **Sanitation District Report**
2. **PAWSD/Pipeline Update Report**

VI. NEXT BOARD MEETING AUGUST 4, 2015 AT 5:00PM

VII. ADJOURNMENT

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

PAGOSA SPRINGS SANITATION GENERAL IMPROVEMENT DISTRICT MEETING MINUTES
TUESDAY, JULY 7, 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 June 15, 2015 Meeting Minutes** – Board Member Bunning moved to approve the consent agenda, Board Member Lattin seconded, unanimously approved

V. REPORTS TO BOARD

1. **PAWSD/Pipeline Update Report** – Staff completed the eligibility survey for CDPHE that keeps the district eligible for potential future grants. Mr. Keith Bowhan was hired as the new project manager for Hammerlund Construction. The contractor is committed to completing the project on time but is aware that long lead time components and weather are factors to be considered. Progress on both pump stations are moving along well and installation of the approximately 7,000 feet of force main and 300 feet of gravity pipe will start this week.

VI. NEW BUSINESS

1. **Resolution 2015-02, Authorizing Certification of Delinquent Accounts for Collection by the County Treasurer** - The District regulations allow the certification of delinquent sewer fees to the County Treasurer for collection with property taxes. This process has been a great success in the District's ability to collect delinquent fees. One customer has been delinquent in paying their account over the last several months. Board Member Schanzenbaker moved to approve Resolution 2015-02, authorizing certification of delinquent accounts for collection by the County Treasurer, Board Member Egan seconded, unanimously approved.

VII. NEXT BOARD MEETING JULY 23, 2015 AT 5:00PM

VIII. ADJOURNMENT – Upon motion duly made, the meeting adjourned at 5:08pm.

AGENDA DOCUMENTATION

REPORTS TO BOARD:V.1

PAGOSA SPRINGS SANITATION BOARD OF DIRECTORS
JULY 23, 2015

FROM: GENE TAUTGES, SANITATION SUPERVISOR

PROJECT: SANITATION DISTRICT REPORT
ACTION: DISCUSSION

ADMINISTRATIVE

On July 7th I submitted the first required quarterly report to the Small Community Grant Program. We expect to ask for our first funding request this month. We were also informed the US Census Department and the Department of Commerce require reports as well, so I am in the process of correcting the information that has been previously submitted when the project was being reported by PAWSD.

All of the private geothermal wells that the town is responsible for monitoring on a monthly basis have been downloaded and disseminated to the proper entities. Numerous business licenses have been reviewed and approved as well as lot consolidation requests. The Piedra Street repaving project has required that a manhole be excavated and raised to grade which we are in the process of doing this week. I also have two pending new connections to the sewer system in the works which will probably actually connect in August.

COLLECTION SYSTEM

Along with our engineer, I have been analyzing data from the flow meters we have installed at several points in the sewer collection system. We are trying to zero in on areas that cause rather large flow spikes at the lagoons. Thus far, one area looks suspect and we have moved some of the meters around to further identify problem areas. Of course, any unnecessary flows that can be eliminated will save power and treatment costs in the long run.

One small clog was reported in the collection system this month which was quickly removed. I have treated this section of pipe with tree root killing chemical and will monitor it over time. It may require excavation if chemical treatment is unsuccessful. Other than several small power outages that have required extra attention, the sewer lift stations have been running flawlessly.

WASTEWATER TREATMENT PLANT

The average daily flow to the lagoon system in June was 288,000 gallons per day with no violations reported. However there were some peak flows during heavy rain events that are of concern which as mentioned above, are being investigated. I have completed all the required maintenance on equipment for the quarter at the treatment plant and anticipate one more round before the facility is decommissioned. I'm trying to keep the need for lubricants and spare parts to a minimum to stay within the budget.

AGENDA DOCUMENTATION

REPORTS TO BOARD:V.2

PAGOSA SPRINGS SANITATION GENERAL IMPROVEMENT DISTRICT
JULY 23, 2015

FROM: GENE TAUTGES, SANITATION SUPERVISOR

PROJECT: PAWSD/PIPELINE UPDATE REPORT
ACTION: UPDATE AND DISCUSSION

PROJECT UPDATE

The sewer pipeline installation on School District property near pump station #1 is complete with only water related work remaining before restoration begins. The contractor is attempting to have the least possible effect on the annual Pagosa Mud Run event that takes place on July 25th in the vicinity of the construction area. The contractor, engineer, and Archuleta County are finalizing discussions on the Trujillo Road portion of the project and installation should begin there soon. The contractor has also applied for a road cut permit from the town for the gravity portion of the project on south 5th street. They have been informed that this work should be completed before the beginning of the school year before increased traffic in that area is encountered.

Plumbing, electrical, mechanical, finish drywall and painting, and other work continues on both pump stations. Four 150 horsepower submersible pumps were installed at the stations two weeks ago and the last four of the same size will be installed in the next few weeks.

I am caught up on the certified payrolls for the Davis Bacon Wage reports that are required. These reports will increase in size as soon as additional crews start on the Trujillo Road portion of the pipeline.

At the construction meeting held on July 9th, the contractor made an unofficial request to have the de-commissioning of the lagoons portion of the project to be included in the cleanup phase which has a final completion date of October 31st due to numerous project delays over the last year and a half which they had no control over. Different options are being explored and this issue will more than likely come back to the Board of Directors at some juncture soon.

I have had initial meetings with the contractor regarding the de-commissioning phase and how it can be done efficiently and timely with the least effect on the treatment system. Once completed, I have already made contact with the state health department on the elimination of the GID's discharge permit. Notification to the US Army Corp of Engineers, and the Colorado Water Resource and Power Development Authority (CWRPDA) will also be made at the appropriate time.

Respectfully submitted,
Gene Tautges
Sanitation Supervisor