

**BOARD OF TRUSTEES
CITY OF CREEDE, COLORADO – A TOWN
December 14, 2010**

REGULAR MEETING

The Board of Trustees of the City of Creede – a Town, County of Mineral, State of Colorado, met in regular session in the Creede Town Hall at the hour of 5:35 p.m. There being present at the call of the roll the following persons:

PRESENT: Elizabeth Zurn, Evelyn Gant, Debbie Wylesky, Ed Skroch, Debby Roughton-Miles, Denis Powell, Eric Grossman

Mayor Roughton-Miles, presiding, declared a quorum present:
Those members of staff also present were as follows:

Pamela Wilson, Clerk/Treasurer
Clyde Dooley, Town Manager
Benjamin Gibbons, Attorney

REVIEW AGENDA

Trustee Grossman moved and Trustee Wylesky seconded to approve the agenda as received. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

APPROVAL OF NOVEMBER 9, 2010 MINUTES

Two spelling errors were corrected. Trustee Powell moved and Trustee Grossman seconded to approve the November 9, 2010 minutes as amended. The vote was unanimous. Mayor Roughton-Miles declared the motion carried. The Mayor asked Dooley if he had contacted Danny Gallegos about the payment for the museum track and if he had contacted the Assessor for information to calculate the fee for Dressers Encroachment Agreement. Dooley said he has left messages for Gallegos, but have not heard back from him and he got a formula and did calculate a value for Dresser.

MONTHLY DISBURSEMENTS

APPROVE/DISAPPROVE RELEASE OF CHECK DATED 8/31/10 TO CONTRACTOR FRANK FREER

After consulting with Town Attorney Gibbons, Trustee Skroch moved and Trustee Grossman seconded to release the check and pay Frank. The vote was unanimous. Mayor Roughton-Miles declared the motion carried. The clerk handed Freer his check following the motion to release it.

REVIEW/CONSENT OF THE PREVIOUSLY PAID DISBURSEMENTS ON THE NOVEMBER 2010 CHECK
DETAIL REPORT

Trustee Zurn moved and Trustee Wylesky seconded to approve the previously paid disbursements on the November 2010 check detail report. The vote was unanimous. Mayor-Roughton-Miles declared the motion carried.

APPROVAL/DISAPPROVAL OF RMS UTILITIES, INC.ASPHALT/PAVED PROJECT INVOICE FOR
CHECK TO BE WRITTEN AND SIGNED

Trustee Zurn moved and Trustee Powell seconded to approve payment of RMS invoice 35089 for the bid amount of \$35,090.00 with the expectation that future payments will be paid on the correct calculations of the additional seven hundred feet. The vote was unanimous. Mayor Roughton-Miles declared the motion carried. The remainder will be discussed at the December work session.

It was noted that Lennie a foreman for RMS and Davis from the City measured the original 4,088 feet to be paved and Davis from the City and Brad a foreman for ACI measured the additional seven hundred feet to be paved.

APPROVAL/DISAPPROVAL OF PROFESSIONAL SERVICES INVOICES (AND OTHERS AS NECESSARY)
FOR CHECKS TO BE WRITTEN AND SIGNED

The Board reviewed the list of unpaid bills as of December 14, 2010 including the RMS Utilities, Inc. pay estimate #3 in the amount of \$163,864.53. The clerk provided a copy of the pay estimate to each of the Board members. The Board asked Public Works Director, Davis questions about the pay estimate and water line replacement project status.

Questions were asked and answered about the unpaid bills detail. Trustee Zurn moved and Trustee Wylesky seconded to approve payment of the unpaid bills detail as of December 14, 2010. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

The Board received updated copies of the matrix that Manager Dooley is keeping at the request of Deb Downs, Regional Manager DOLA. This document provides water line replacement project information for the Board, Downs, Drinking Water Revolving Fund (DWRF) and the city's auditor.

REPORTS AND PRESENTATIONS

PUBLIC WORKS REPORT AND WATER LINE PROJECT UPDATE

Public works director, Ben Davis was available to answer question about his report. Mayor Roughton-Miles, Mayor Pro-Tem Skroch, Manager Dooley and Davis recently walked the streets of Town noting the repairs that need to be made following the water line project phase III. It was noted that Fourth Street appears to be the roughest at this time. The Board agreed to discuss using Davis as the inspector rather than the McLaughlin inspector at the next work session. Questions were asked and answered.

BUILDING INSPECTOR'S REPORT

Mike Kolisch, the Town's building inspector was available to answer questions about his report. The Board reviewed his report. Kolisch informed the Board that Lambs received a temporary Certificate of Occupancy (CO) today. This CO gives the Lambs thirty days to fix the noted violations.

WRITTEN REPORTS

This item includes written reports from The Chamber of Commerce, Recreation and WCRC, Community Center follow-up , 2011 Town Board meeting dates and Holiday schedule, 2011 reports due to clerk for Board meeting packets and reporting calendar and Clerk's memo. These reports are to be read at the Board's leisure.

As the liaison to the Chamber, Trustee Wylesky apprised the Board of Chamber Board issues and it may be necessary to have a second Town Board member or more attend the Chamber meetings. Wylesky said she will stay on as the liaison unless the issue she explained cannot be resolved. Wylesky noted that the next Chamber meeting is a retreat scheduled from 9:00 a.m. to 5:00 p.m. on January 11, 2011 at one of the empty houses in Creede America.

Trustee Zurn noted that the Board starts discussing the Fourth of July items mentioned in the Recreation Report sooner rather than later. The Board will start this after the first of the year.

About the 2011 Calendar of Regular Town Board meetings and Holidays memo, Trustee Grossman moved and Trustee Zurn seconded to hold the regular Board meetings the first Tuesday of each month at 5:30 p.m., the work session the third Tuesday and move P&Z's regular meeting to the second Tuesday of each month at 5:30 p.m. There were four yes votes and two no votes (Gant and Wylesky). Mayor Roughton-Miles declared the motion carried. The clerk will update this memo for the Board and staff as well as the reports due memo. The clerk will publish the new meeting days/dates.

PUBLI HEARINGS AND RELATED ACTIONS

RESOLUTION 2010-13, PROPOSED 2011 BUDGET

Mayor Roughton-Miles read aloud the title of resolution 2010-13 and opened the public hearing. One person signed up to speak.

Creede resident, John Mattingly signed up to comment as well as having filed an objection. Mattingly discussed his letter and provided the Board with an addendum to his letter (the clerk did not receive a copy of the addendum). Mattingly feels the budget format is muddled and is hard to understand. He asked the Board to

consider changing the format during this next year. Mattingly noted that he cannot get the budgeted payroll taxes and fringe benefits to add up to what they should based on the budgeted salaries. Mattingly encouraged the Board to consider breaking the fringe benefits out by line item. Mattingly said he feels the sum of professional services budgeted in water and sewer and general fund is not enough to cover Gibbons and McLaughlin. It was explained to him that many of McLaughlin's invoices are not coded to professional services, but rather to the water line project expense line item. Questions were asked about the Virginia Christensen fund. Mattingly was curious to why sales tax went into the Capital Improvement fund. It was explained that half of the city sales tax goes into CI to build the fund for capital improvement projects as per Creede City Ordinance number 236, dated November 7, 1983. Mattingly said he would like to see the Board call for volunteers for a committee along with the mayor and at least one trustee to review the budget and to provide ideas. The Mayor thanked Mattingly for his comments and added that the Board is working on adopting job descriptions so performance reviews can be implemented.

Mayor Roughton-Miles closed the public hearing to public comment.

Mayor Roughton-Miles asked Gibbons and Dooley about the legalities of revising a budget if Resolution 2010-13 is adopted tonight and said she would like the resolution adopting this budget have a clearer title such as *A Resolution to adopt and to appropriate the funds for the 2011 Budget*. Trustee Zurn added that she would like to see the Board work on several things in the budget when revising the budget next year, post the revision well in advance and publish another public hearing for public comment.

Trustee Grossman moved and Trustee Zurn seconded to adopt Resolution 2010-13, as amended with the verbiage in the title that Mayor Roughton-Miles has specified. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

OLD BUSINESS

MAMMOTH MOUNTAIN PROPERTIES (MMP) CONDITIONAL USE PERMIT APPLICATION

Trustee Zurn moved and Trustee Grossman seconded to approve the conditional use permit as applied for by MMP and recommended with the *stipulation that no improvement be started until a site specific improvement plan showing all proposed improvements is approved by the city Board of Trustees* by the Creede Planning and Zoning Commission on September 7, 2010. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

REVISIT HEALTH DISTRICT SALES TAX ISSUE

Mayor Roughton-Miles explained her understanding of what took place with the sales tax payment to the Rio Grande/Mineral health district prior to 2006. Roughton-Miles stated said that Deb Downs of DOLA and Mike Wisdom of San Luis Valley Development Resources Group (SLVDRG) have offered to come up and help negotiate between the city and the county and to explain to this Board what happened and explain to the county how the city feels. It was discussed that this is a dead issue and if the county feels it is not, they need to send the city something in writing stating otherwise. Trustee Gant moved and Trustee Wylesky seconded that this is a dead issue and will not be discussed anymore. There were no yes votes. Mayor Roughton-Miles declared the motion failed. Trustees Gant and Grossman were directed to follow through with their recommendation to involve the State. It may be discussed further at the next work session.

SCHEDULE A PUBLIC HEARING FOR ORDINANCE 360, AN ORDINANCE GRANTING A FRANCHISE BY THE TOWN OF CREEDE TO CAP CABLE, LLC d/b/a USACOMMUNICATIONS, A COLORADO LIMITED LIABILITY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHTS TO FURNISH, SELL AND DISTRIBUTE CABLE TELEVISION AND ANCILLARY SERVICES TO THE TOWN AND TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE TOWN AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE AND EXTEND INTO, WITHIN AND THROUGH SAID TOWN ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL AND DISTRIBUTE CABLE TELEVISION SERVICE TO ALL PERSONS, BUSINESSES AND INDUSTRIES WITHIN THE TOWN AND WITHIN THE TERRITORY ADJACENT THERETO AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS AND OTHER PUBLIC PLACES AS MAY BE NECESSARY, AND FIXING TERMS AND CONDITIONS THEREOF.

Since the Board scheduled their 2011 regular meetings on the first Tuesday of each month, there is not time to publish and post notice of this public hearing for January 4, 2011, but rather not until the February meeting if it were to go to a regular meeting. Since the Board already has a special meeting scheduled on Monday, January 10, 2011 for a public hearing to consider PUD regulations for the Land Use Code and to consider annexation of the CRI property, they agreed to add the public hearing for ordinance 360 to the special meeting agenda. The clerk will publish and post this information. The Board would like to have ordinance 360 on their next work session as well.

NEW BUSINESS

PRIVATE EVENT ON PUBLIC PROPERTY PERMIT APPLICATION – TOMMYKNOCKER TAVERN & KIP’S GRILL FOR CREEDE ATHLETICS

Brian Brittain, owner of Tommyknocker Tavern, presented his application for a private event on public property permit to hold the pond hockey tournament hosted by Tommyknocker Tavern & Kip’s Grill for Creede Athletics on January 15 & 16, 2011. They use the ponds north of Town Hall across from the Underground Community Center. Brittain asked the Board to waive the daily fees and the \$500 clean-up deposit. The Board explained the un-deposited deposit will be returned right away after clean-up and inspection of the property. The fifty dollar per day fee was questioned by Brittain because the Town does not maintain the ponds on a regular basis, but the local folks take care of it instead. The Town’s zamboni is used; however. It was clarified that the fee is only for the two days of event and did not include set-up and tear-down; however, the insurance coverage needs to cover set-up, event and tear-down (all four days). Brittain argued that he feels the fee is wrong because they are all volunteers and that means the Town is charging its volunteers. The copy of the insurance application reflected incorrect dates and has to be corrected and a certificate must be issued to the Town naming Creede as an additional insured before a permit will be issued. Trustee Wylesky moved and Trustee Powell seconded to approve the private event permit as long as all fees are paid and the stipulation on the insurance has been met. There were five yes votes and one abstained (Grossman-works for Brittain). Mayor Roughton-Miles declared the motion carried.

LIQUOR LICENSE RENEWAL – TOMMYKNOCKER’S TAVERN – TAVERN LIQUOR LICENSE

Trustee Powell moved and Trustee Gant seconded to approve the tavern liquor license renewal for Wall Street Enterprises of Creede, Inc. d/b/a Tommyknocker’s Tavern. There were five yes votes and one no vote (Wylesky). Mayor Roughton-Miles declared the motion carried.

MINERAL COUNTY BOARD OF COUNTY COMMISSIONERS DONATION/REIMBURSEMENT REQUEST

The Board agreed to send this to a work session. (This item will be on the December 28, 2010 special meeting agenda for action per Mayor Roughton-Miles).

RESOLUTION 2010-10, ADOPTING A CROSS-CONNECTION CONTROL POLICY

The policy did not accompany the resolution so the Board agreed to send this to their next work session first.

RESOLUTION 2010-11, 2010 REVISED BUDGET

Trustee Zurn moved and Trustee Grossman seconded to approve Resolution 2010-11 with the added title *A Resolution to adopt and appropriate the 2010 Revised Budget*. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

RESOLUTION 2010-12, A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2011, TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE CITY OF CREEDE, A COLORADO TOWN

Trustee Zurn moved and Trustee Gant seconded to approve and to adopt Resolution 2010-12. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

RESOLUTION 2011-01, A RESOLUTION OF ANNUAL DESIGNATIONS AND 2011 FEE SCHEDULES

The Board agreed to increase item 10. (B) Meals from \$36 per day to fifty dollars per day calculated at \$10 for breakfast, \$15 for lunch and \$25 for dinner. The Board also agreed to increase item 10. (D) Lodging "...but not in excess of..." from \$95 per night to \$110 per night. The Mayor said she would like the item in section V. identified as Bulk Water per gallon to also include the description of standpipe. Trustee Skroch moved and Trustee Wylesky seconded to approve and to adopt Resolution 2011-01 as amended. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

APPROVAL/DISAPPROVAL OF PERFORMANCE BASED CONTRACT FOR SERVICES OF MUNICIPAL JUDGE TO TAKE EFFECT JANUARY 1, 2011

Trustee Zurn moved and Trustee Skroch seconded to approve the performance based contract for municipal judge services. The vote was unanimous. Mayor Roughton-Miles declared the motion carried. The clerk will send the contract to Ruth Acheson for her signature.

PARTNERING WITH RURAL ELECTRIC COOPERATIVE (REC) FOR HYDRO-ELECTRIC AND PAVED PROJECTS

Mayor Roughton-Miles shared with the Board information she had received from one of the Board members of SLVREC about partnering with the Town on a hydro-electric project. They have people looking at the money issues. SLVREC is working with USDA and has access to low interest loans for paved projects for the Town. Roughton-Miles asked the Board if they are interested in sitting down with them to discuss the possibilities. Also discuss their program called Cooperative Connections, a purchasing card. It was recommended that the Board enter any agreement cautiously.

ACCEPT JB ALEXANDER'S LETTER OF RESIGNATION FROM HIS POSITION AS A PLANNING AND ZONING COMMISSIONER

Trustee Skroch moved and Trustee Grossman seconded to accept Alexander's letter of resignation from the Town's Planning and Zoning Commission. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

Alexander has served in excess of two additional years over his original appointment under Mayor Seime in 2004.

MANAGER'S REPORT

The items discussed and the actions taken were as follows:

CLARIFICATION OF TANK MEASUREMENT ERROR - UPDATE: Dooley told the Board that McLaughlin was not at fault for the error in the water tank measurements for the water tank painting and insulation project. Dooley said, "Robert took the measurements and I gave them to McLaughlin."

HAROLD BRINK PROPERTY CLEAN-UP – DIRECTION: Town attorney Gibbons told the Board that he would draft a memorandum offering legal options and costs for action.

DON SHANK – DIRECTION: Shank informed Dooley that he was unable to clean-up all of his tracks this year due to frozen ground. The Board extended the deadline to May 20, 2011 and he needs to also fix the roads behind him.

DAYS OF '92 EVENT CLEAN-UP – DIRECTION: Work session.

HOMESTAKE STRUCTURE AND TANKS – DIRECTION: Work session.

UPPER TANK EASEMENT(S) – DISCUSSION/DIRECTION: This item was not addressed unless it was, by default, sent to the work session with the other two items.

WORK SESSIONS: The Board will hold their regular work session on Tuesday, December 28, 2010 at 5:30 p.m.

This report also contains several information only items as well.

PUBLIC COMMENT PERIOD (BY SIGN IN SHEET)

Creede resident, Rex Shepperd, signed up to talk to the Board about the issue he has been having with the contractors and water on his property. The Board told Dooley that the culvert and the ditch need to be cleaned all the way from Hwy 149 back to Rio Grande Avenue. The Board agreed that the contractor should take a fire hose and hook it to the hydrant while they are pressure testing and run it through the culvert into the ditch to keep the water off Shepperd and Rincon Realty Properties.

ADJOURN

There being no further business to come before the Board of Trustees at this time, Trustee Zurn moved and Trustee Powell seconded that the meeting be adjourned at 9:45 p.m. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

Respectfully submitted:

/s/ Pamela J. Wilson

Pamela J. Wilson, City Clerk/Treasurer