

**BOARD OF TRUSTEES
CITY OF CREEDE, COLORADO – A TOWN
July 5, 2011**

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 5:38 p.m. There being present at the call of the roll the following persons:

PRESENT: Elizabeth Zurn, Evelyn Gant (by telephone), Ed Skroch, Debby Roughton-Miles, Denis Powell, Eric Grossman
ABSENT: Debbie Wylesky

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
Eric Heil, Town Attorney

REVIEW AGENDA

New Business (h) was added for the clerk/treasurer's letter of resignation. An executive session will be added following the public comment period, but before adjournment for the Board to meet with the Town Attorney for the purpose of receiving legal advice to specific legal questions pursuant to Colorado Revised Statute (C. R. S.) §24-6-402(4)(b) related to pending litigation. Merle Knous wanted to speak to the Board about water issues. The Board agreed to sign Knous up to speak during the public comment period and to give him extra time if he needs it. Trustee Grossman moved and Trustee Zurn seconded to approve the agenda as amended. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

APPROVAL OF JUNE 7, AND 14, 2011 MINUTES

Trustee Zurn moved and Trustee Skroch seconded to approve the June 7, 2011 minutes as presented. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

Trustee Grossman moved and Trustee Powell seconded to approve the June 14, 2011 special meeting minutes as presented. There were three yes votes, Zurn abstained because she was absent from that meeting and Gant did not vote. Mayor Roughton-Miles declared the motion carried.

MONTHLY DISBURSEMENTS

REVIEW/CONSENT OF PREVIOUSLY PAID DISBURSEMENTS ON THE JUNE 2011 CHECK DETAIL REPORT

Questions were asked and answered. Trustee Skroch moved and Trustee Zurn seconded to approve the previously paid disbursements on the June 2011 check detail report as presented. The vote was unanimous. Mayor-Roughton-Miles declared the motion carried.

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

Questions were asked and answered about the McLaughlin invoice for the Main Street water line replacement. Trustee Grossman moved and Trustee Powell seconded to approve the payments on the unpaid bills detail as of July 5, 2011. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

APPROVAL/DISAPPROVAL FOR PAYMENT OF MINERAL COUNTY INVOICE 0111 FOR A 2011 DONATION FOR NURSING SERVICES

Mineral County billed the Town for five thousand dollars for a 2011 donation for nursing services. The Board agreed to send this to work session for further discussion and consideration. Dooley will research his budget notes more closely to verify if this donation has been appropriated.

APPROVAL/DISAPPROVAL OF RMS UTILITIES, INC. PAYMENT ESTIMATE #7 FOR PAYMENT

This pay estimate has not been signed by the contractor as of yet; therefore, the Board will not consider approving it tonight. It will be added to their August 2, 2011 agenda for consideration of approval.

REPORTS AND PRESENTATIONS

WATER LINE REPLACEMENT PROJECT UPDATE

McLaughlin Water Engineers, LTD project inspector, Clay Wade verbally updated the Board on the status of the water line replacement project. Wade told the Board that the system-connect to the tank was made last Thursday. Wade said we are nearing the end of phase III. Questions were asked and answered.

PUBLIC WORKS REPORT

Public works director, Ben Davis made a verbal report to the Board this month touching on the following: banners have been hung for the holiday; the department has been turning on water service for returning residents; the four sets of bleachers that were ordered have arrived and when he has a few minutes, Schlough has been trying to assemble them from the "poorly written" instructions and Davis added that cold patch was being put down when they had the opportunity and the conditions permitted. The Mayor asked when did the responsibility of setting up barricades go from the City to the Chamber and so forth. Davis explained that a few years ago that responsibility shifted from the City's responsibility to the sponsor of an event so the taxpayers were not paying their time to be on call to set up and to tear down the non-city events. Questions were asked and answered.

BUILDING INSPECTOR'S REPORT

Creede building inspector, Mike Kolisch, was available at the meeting to answer questions about his report for the Board. No questions were asked.

RECREATION REPORT

Eloise Hooper, Recreation Director was available to answer questions about her report for the Board. Hooper reported she had sixty and one-half vendor spaces for the Fourth of July three were non-profits that she does not charge and again there was security. Hooper said she is comfortable giving fifteen percent of the net income from the vendors to The Days of '92 Committee. Ron Fief, owner of Kentucky Belle Market was present and he said the parking lot looked fine following the Fourth of July vendors using it. Hooper told the Board where the Creede Elks have ordered the porta-potties in the past it wasn't until the last day before the holiday weekend that any were ordered this year because the person that normally took care of this was very busy and it got away from him so Hooper has added that to her "to do" list so it won't get forgotten in the future.

MAYOR ROUGHTON-MILES' REPORT/UPDATE

Mayor Roughton-Miles addressed the Board verbally touching on the following points: she did attend the CML Conference in Vail. Mayor Roughton-Miles asked for reimbursement of her \$310.00 registration fee, she is not asking for reimbursement of mileage or her room while she was there. Trustee Skroch moved and Trustee Grossman seconded to reimburse Mayor Roughton-Miles her \$310.00 registration fee to the CML Conference in Vail. The vote was unanimous. Mayor Roughton-Miles declared the motion carried. She talked about the Council of Governments (COG) in southwest Colorado having brought in broadband to that area and maybe "we" can work with "our" COG (SLVCOG) to bring broadband to this area. Trustee Grossman added that Commissioner Fairchild said that two "thirty-something" individuals said they could probably have broadband in this area sometime next year by bouncing off a couple of towers and so forth. Dooley reminded the Board that there is a meeting scheduled on July 19, 2011 at 3:00 p.m. with Moses, Wittemyer, Harrison, water attorneys. Roughton-Miles thanked Mike Atwater for washing down the roads before the parade on July 4th. She added that the hardware removed their lumber from the strip of property next to the (depot) museum making that space available for much needed parking for the holiday weekend. Mayor Roughton-Miles said that one of the presenters at last months Micro-Hydro meeting in South Fork, Lyndsay George, PhD, of The Applegate Group, will be in Creede this month and she would like a copy of Creede's two feasibility studies. With some insight of what is going on with Creede's micro-hydro plant, George may be able to offer some advice.

WRITTEN REPORTS

Written reports include reports from Chamber of Commerce; Clerk's Memo; Security Report/vendors; LWCRCo. documents. The clerk's memo reported that on June 8, 2011 David Jokinen of JP Morgan Chase told her the distribution that is to be transferred in December to the city's VC Fund Money Market account would be \$180,613.00. Trustee Grossman asked the Town Clerk if Jokinen could break out the principal and the interest for the Board. Wilson explained again that it is distribution and not principal and interest, but she would ask him. The clerk also noted in her memo to the Board that when the audit is ready she may be asking them for a special meeting on July 26, 2011 to receive and to approve it. These reports were received and filed.

OLD BUSINESS

SCHEDULE A PUBLIC HEARING FOR ORDINANCE 367, AUTHORIZING THE SALE AND TRANSFER OF MUNICIPAL PROPERTY TO BOB FREDERICK

Trustee Skroch moved and Trustee Grossman seconded to schedule the public hearing for Ordinance 367 on August 2, 2011 at the Regular Meeting of the Town Board at 5:30 p.m. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

RESOLUTION 2011-04, APPOINTING ERIC JAMES HEIL OF HEIL LAW AND PLANNING, LLC AS THE TOWN ATTORNEY FOR THE CITY OF CREEDE, COLORADO

Heil attached a memorandum to this resolution and an agreement for legal services for Town Attorney. Trustee Grossman moved and Trustee Zurn seconded to adopt resolution 2011-04, Appointing Heil as Town Attorney. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

NEW BUSINESS

PARADE PERMIT APPLICATION FOR STREET CLOSURE FOR – SNOWSHOE SHUFFLE

The Board directed that the insurance requirement that is part of the special event permit policy and application to use city property should be added to the parade permit application as well. Haverfield has proof of insurance naming the city as additional insured for this event.

Trustee Zurn moved and Trustee Skroch seconded to approve the parade permit application for the Snowshoe Shuffle to be held on August 6, 2011. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

REPORT OF CHANGES, DR 8442 FOR MODIFICATIONS OF (LIQUOR LICENSED) PREMISES – THE WILD BEAVER LIQUOR STORE, RAMONA WEBER

This modification is to add a drive up window. The Board would like more information and have asked the Town attorney to look at the situation and write up his opinion and an agreement between the city and Weber for this modification. The Board will address this item at the July 19, 2011 special meeting.

ART GALLERY (LIQUOR) PERMIT RENEWAL APPLICATION – JENNIFER INGE, RARE THINGS GALLERY

Trustee Zurn moved and Trustee Grossman seconded to approve the renewal of the Art Gallery (Liquor) Permit for Rare Things Gallery. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

SPECIAL EVENT PERMIT APPLICATION (USE OF CITY PROPERTY) AND PARADE PERMIT APPLICATION (STREET CLOSURES) – CREEDE MOUNTAIN RUN – CHAMBER OF COMMERCE, DELLA BROWN

Trustee Grossman moved and Trustee Zurn seconded to approve this special event permit application for the use of the mining events arena for the Creede Mountain Run on September 3, 2011. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

Trustee Zurn moved and Trustee Grossman seconded to approve the parade permit application for street closures for the two, twelve and 22 mile Creede Mountain Run(s) on September 3, 2011. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

PARADE PERMIT APPLICATION (STREET CLOSURES) – SALSA FIESTA – CHAMBER OF COMMERCE, DELLA BROWN

Trustee Zurn moved and Trustee Powell seconded to approve the parade permit for street closures for the Salsa Fiesta to be held on September 3rd, and 4th. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

PARADE PERMIT APPLICATION (STREET CLOSURES) – GRAVITY DERBY – CHAMBER OF COMMERCE, DELLA BROWN

The Board was unclear on what a gravity derby is. Brown explained it is like a “soap box derby” with man-made non-motorized vehicles that race by the use of gravity down the slope of Main Street. The Board was concerned about any cars that were parked on Main Street before the barricades blocked traffic and wanted more information from Brown about the insurance coverage for this event. Brown will provide more information to the Board at the July 19, 2011 work session and this item will be put on the August 2, 2011 regular meeting agenda for approval or disapproval.

AUTHORIZATION FOR TRUSTEES GROSSMAN AND ZURN, THE CITY’S MEMBERS OF LOWER WILLOW CREEK RESTORATION COMPANY (LWCRCO.) TO APPROVE:

1. THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN LWCRCO. AND WILLOW CREEK RECLAMATION COMMITTEE (WCRC)

After asking, the Board received the legal opinion of the Town attorney that Trustee Gant is allowed to vote at this meeting as long as she has access to all the documents being considered at this meeting. The clerk scanned the entire board packet to her for this meeting. Since there is no case law proving differently, it is the opinion of the attorney that in the physical absence of any trustee that can attend by telephone, they can vote providing they have access to all the documents being considered.

Trustee Grossman moved and Trustee Powell seconded to authorize the City of Creede’s representatives to approve the memorandum of understanding. The vote (including Gant) was unanimous. Mayor Roughton-Mile declared the motion carried.

2. LWCRCO. RESOLUTION TO OPEN BANK ACCOUNT AND RESOLUTION ADOPTING FINANCIAL POLICIES

Trustee Powell moved and Trustee Gant seconded to authorize the City of Creede’s representatives on LWCRCo. to approve the resolution authorizing opening a bank account and the resolution adopting financial responsibility policies. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

3. CASEY RESOURCES, INC. CONTRACT

Trustee Zurn moved and Trustee Powell seconded to authorize the City of Creede’s representatives on the LWCRCo. to approve the contract with Casey Resources, Inc. on the condition a grant is received in at least the dollar amount listed in the contract or more. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

TOWN CLERK/TREASURER’S LETTER OF RESIGNATION

The Board had received a letter of resignation from Town Clerk/Treasurer, Pamela J. Wilson stating her last day will be Friday, July 29, 2011. Trustee Grossman moved and Trustee Powell seconded to accept Wilson’s resignation and to wish her well. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

Town Manager, Dooley presented the Board with a draft ad for the clerk/treasurer position asking for approval to post and publish it as soon as possible because “training time is of the essence,” Dooley added. With three and a half weeks left, the Board directed staff to post the ad around town, publish it in the Valley Courier Newspaper and on the CML Listserve.

MANAGER’S REPORT

The items discussed and the actions taken in the Manager’s Report were as follows:

RMS CHANGE ORDER #1 – DIRECTION: The Board will consider this change order in the amount of \$2,196.63 at their August 2, 2011 meeting.

RAILROAD TRACKS REMOVAL – DIRECTION: Dooley presented a copy of the letter from Creede’s attorney to Don Shank to the Board about the remainder of the railroad tracks in town. Dooley asked the Board if they want contractor Randy Wood to remove the remains of the railroad bridge at the end of the flume? The Board agreed they want to keep the bridge. It was suggested by Dooley and decided by the Board to discuss this more thoroughly at the July work session.

PETERSEN QUIET TITLE ACTION – DIRECTION: This is one of the issues that Eric Heil will be updated on in Executive Session. Lee Petersen and his attorney Matt Hobbs were present.

EGOLF & JACKSON SERVICE LINES – DIRECTION: Dooley explained to the Board that the water designs for phase 4 include abandoning an old water line east of Brian Egolf’s and Marcie Jackson’s homes. Dooley is recommending that the city pay half (\$4,000) of this expense and there is currently a balance of \$11,679 in the water and sewer fund professional services for this. The Board will discuss this further at their work session and make a decision (motion) on it at the August 2, 2011 meeting.

CREEDE REPERTORY THEATRE TICKETS – DRAWING: The city received a gift certificate for two complimentary tickets to any CRT performance this season for advertising in the CRT Program. The Board agreed to give this year’s tickets to Wilson as a farewell to her. Wilson told them thank you very much and she appreciates their generosity.

WORK SESSIONS: The Board will hold their regular work session on Tuesday, July 19, 2011 at 5:30 p.m. following a 3:00 p.m. special meeting.

The Board received copies of the financial reports. Additional Informational only items and updates were included in this report.

PUBLIC COMMENT PERIOD (BY SIGN IN SHEET)

Creede resident Merle Knous talked to the Board an approved extended period of time about the city’s water rights source of water the Nelson Tunnel and potential water storage.

EXECUTIVE SESSION

Trustee Grossman moved and Trustee Zurn seconded to convene into executive session at 7:50 p.m. to meet with the Town Attorney for the purpose of receiving legal advice to specific legal questions pursuant to C. R.S. §24-6-402 (4)(b) related to pending litigation regarding Petersen v City of Creede, 2010 CV 13, and regarding the City of Creede’s water rights. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

Mayor Roughton-Miles stated that they are now convened in executive session. Those present are the Board of Trustees all but Trustee Wylesky and Town Attorney Heil. The purpose of this executive session is to receive legal advice to specific legal questions related to pending litigation regarding Petersen v City of Creede, 2010 CV 13 and regarding the City of Creede’s water rights. All persons present must confine the discussion to the purpose of the executive session. If at any time during the executive session anyone believes that the discussion does not concern the topic and the purpose of the executive session, please raise your objection immediately. I will now turn the executive session over to the Town Attorney.

Heil said that this executive session concerns legal advice; therefore, he requested the Town Clerk cease recording the executive session at this time.

At 8:25 p.m. following the executive session the Mayor stated they are now reconvened in regular session. If any Town Board member believes that any discussion in executive session was inappropriate and not related to the topic and purpose of the executive session please state your objections at this time. Hearing no objections, we will now proceed to any remaining business.

ADJOURN

There being no further business to come before the Board of Trustees at this time, Trustee Powell moved and Trustee Zurn seconded that the meeting be adjourned at 8:25 p.m. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

Board of Trustees
City of Creede
July 5, 2011
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Respectfully submitted:

Pamela J. Wilson, City Clerk/Treasurer

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