

**BOARD OF TRUSTEES
CITY OF CREEDE, COLORADO – A TOWN
July 8, 2008**

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 5:30 PM. There being present at the call of the roll the following persons:

PRESENT: Kathy Lehman, Evelyn Gant, Debbie Wylesky,
 Peter Calandrucchio, Joe Keller, Rex Shepperd, Dana Brink

Each member of the Board of Trustees with the exception Mayor Calandrucchio, after announcing they are present added that they wanted item a) of Roll Call moved to item h) of Reports and Presentations. Mayor Calandrucchio reminded the Trustees that this is roll call only. City Attorney Gibbons explained to Mayor Calandrucchio that procedurally to Review the Agenda comes before any business. City ordinance number 182 chapter 2-2-1(e), the order of business of the Board Meeting...was referenced. Trustee Brink moved and Trustee Wylesky seconded to item II a) to item VI h). By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

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

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

REVIEW AGENDA

Item (h) of New Business was added to call for a special meeting to discuss amending Ordinance 182 chapter 2-2-2(b) and item (g) of New Business was changed from election of chairman for work sessions to discuss amending Ordinance 182 chapter 2-1-2, Mayor Duties and item (i) of New Business was added to discuss requesting reports by citizens, Council or Mayor to be in written form in the packets. Trustee Shepperd moved and Trustee Wylesky seconded to accept the agenda as amended. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

APPROVAL OF MINUTES FOR JUNE 10, 2008

Trustee Shepperd moved and Trustee Gant seconded to approve the minutes of June 10, 2008, as presented. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

MONTHLY DISBURSEMENTS

Questions were asked and answered. Trustee Keller challenged the reimbursement to Mayor Calandrucchio for the CREEDE stamp he purchased to make his “keys to the city” that he hands out at each meeting. This has not been approved by The Board of Trustees. Mayor Calandrucchio agreed to pay the city back the \$15.45 he has received for the stamp. Trustee Brink moved and Trustee Gant seconded to approve the monthly disbursements as presented on the June 2008 check detail report. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

Mayor Calandrucchio briefly explained the city follows *Robert’s Rules of Order* to the best of its ability. Starting with the Board, everyone has the opportunity to speak. Calandrucchio asked that each person state their name and their business with the Board for the record. Only after everyone who wishes to speak has spoken for the first time, may someone speak to a topic a second time. More on *Robert’s Rules of Order* will be addressed later in the meeting.

REPORTS AND PRESENTATIONS

MINERS AND MERCHANTS BANK – VERBAL PRESENTATION

Branch Manager, Dan Rivera was present to address the board with the Bank's position on political issues. Rivera read aloud a prepared statement concerning advertising practices of Pine River Valley Bank d/b/a Miners and Merchants Bank of Creede.

STEPHANIE WOOD FOR *THE SILVER BULLETIN* AND CLIENTS – VERBAL PRESENTATION

Stephanie Wood for *The Silver Bulletin, LLC* was present to address the Board of Trustees. Wood read a statement she identified as "an official complaint against members of Creede city council." Wood proceeded to read her statement. Wood told the Board that she is pursuing legal counsel concerning their behavior.

Some clients of *The Silver Bulletin* were available for comment.

COUNCIL PRACTICES – VERBAL PRESENTATION

Mayor Calandruccio turned the chair over to Mayor Pro-tem Shepperd for this item only so he could read a prepared statement of his opinion. Calandruccio continued, "I am asking the City Attorney to file suit in district court on behalf of the citizens of Creede against the individual members of Council to investigate and prosecute those responsible for violations of the Sunshine Law, negligence in unjustly abandoning their duties, tortuous interference and malfeasance, which is intentional sabotage of a contractual relationship. I will also be asking attorney Erich Schwiesow of the law firm Lester Sigmond Rooney and Schwiesow to serve as special counsel to the Mayor in prosecuting this matter. I will also, on behalf of the citizens of Creede, be issuing a formal complaint and request for action under Amendment forty-one of the Colorado State Constitution, Ethics in Politics, to their ethics commission." "Until the legitimacy of the City's Council can be restored, there can be no legitimate decisions made or progress made..." "In the alternate to legal action, I call for the voluntary resignation of each member of Council who has engaged in any of these practices." Calandruccio resumed the chair.

BLOCK 25 REPLAT UPDATE

Anne Pizel was present to address the Board of Trustees and to update them on the replat of Block 25 in Creede that had been approved by the previous Board. Pizel explained that Whoville, LLC's (Mermaid Café) and the bank's property have already been replatted. Pizel is still trying to get all the property owners together on this. They will go before an attorney and bring a contract to the City stating what the city has agreed to and what the property owners have agreed to. The property owners will proceed and hire Davis Engineering to do the survey. Pizel said she is waiting on all the property owners to have the attorney prepare the document for the city to review. Pizel said she hopes to have the contract to the city no later than the September meeting and hopefully by the August meeting.

BUILDING INSPECTOR'S REPORT

Mike Kolisch was available to answer questions about his report. The Board reviewed Kolisch's report. As it was documented in the minutes of the June Board of Trustees meeting, Michael Pitre "Tee Black" had volunteered to tear all but the door down and would like to put two little pieces of tin, two feet wide, over the doorway.

RECREATION REPORT

Creede/Mineral Arts and Recreation (CMAR) director, Eloise Hooper was available to answer questions about her report. The matter of the fees for the Fourth of July vendors was discussed and defended by Hooper. Hooper said she may need to raise fees next year so she can hire security for the vendor area.

ROBERT'S RULES OF ORDER PETITION – VERBAL PRESENTATION

Creede resident, Henry Brink, addressed the Board and presented a petition signed by fifty-three people requesting that *Robert's Rules of Order* be adhered to during city council meetings. Brink stated a brief overview of *Robert's Rules of Order*.

A REVIEW OF PROCEDURES OF DISCUSSION PER ROBERT'S RULES OF ORDER

Mayor Calandruccio stated that he no longer wished to further discuss *Robert's Rules of Order*; therefore he chose to forego talking about procedures of discussion.

PUBLIC HEARINGS

ORDINANCE 346, SUPERSEDES AND REPLACES ORDINANCE 345

Mayor Calandruccio explained that ordinance 345, establishing the regulation of signage within the City of Creede had been adopted in April, but since its adoption the Board has suspended the enforcement of ordinance 345. The Board has been revising the verbiage in ordinance 345, thus creating ordinance 346. Mayor Calandruccio read ordinance 346 in full.

Trustee Shepperd moved and Trustee Wylesky seconded to open the public hearing. The vote was unanimous. Mayor Calandruccio declared the motion carried.

The following persons signed up to speak:

Anne Pizel, owner of Broken Arrow Ranch and Land Company, LLC, Creede. Pizel is opposed to the sign ordinance. She does not feel the "unwritten" complaints justify drafting and adopting this ordinance, but rather stemmed from competition among businesses. The sign ordinance that was drafted in the 1980s was never adopted and she feels that we never needed one.

Stephanie Wood, Creede resident and owner of the Silver Bulletin, LLC. Wood is opposed to the sign ordinance. She asked the Board, "What's wrong with the signs we have in Town?" Wood stated that they are not negatively affecting the community's health, safety and welfare. "Nobody's had a problem with our vast array of colorful signs, have they?" asked Wood. She feels this ordinance will "snatch" away a right that belongs to everyone in this community. With this ordinance come restrictions and permits. "You are making rights into privileges..."

Ed Hargraves, Creede resident. Although, not signed up, Mayor Calandruccio, "out of respect for Ed's seniority in this community," recognized Hargraves by allowing him to comment on this issue. Hargraves is in favor of the ordinance. He told the Board, "I think the City is on the right track for having an ordinance."

Henry Brink, Creede resident. Brink is neither in favor nor opposed to the sign ordinance. He wanted to address what the Council should do when they make their decision.

Mike Kolisch, Creede resident and Building Inspector. Kolisch is in favor of the sign ordinance. He supported individuals being allowed to put on their sign what they want, but had concerns about safety when it comes to size and regulating the signs over sidewalks and for traffic.

Ed Vita, Creede resident. It appears that Vita has left the building. If he returns during the hearing, he will be allowed to speak at that time.

Martha Owens, Creede resident, Realtor and Director of the Creede/Mineral County Chamber of Commerce. Owens is in favor of the ordinance. She feels there must be control of signage in the city. Owens stated, "We must regulate signage in our city for the proper usage of signs in our city."

Daniel Archibald, owner of Archibald's Exchange, LLC d/b/a Mac's Old Mine, Creede. Archibald is opposed to the sign ordinance. Referring specifically to flashing, spinning neon signs and stating, "That I think everyone in this community takes pride in the natural beauty of this community and no one is going to clutter this community with spinning, flashing neon signs." Archibald noted that this ordinance will not affect him because his signs are "grand-fathered" in and he does not plan on changing them from what they are now. He feels the people of this community should be trusted to do what is right. Archibald addressed the issue of enforcement of the ordinance.

Keith Siddel, Creede property owner, requested information referencing the "Freedom of Information Act." He is asking "for any information to any council person or the mayor or the city that has come to you asking that the sign ordinance be passed or put up or changed or something be made public." Siddel commented on the votes in favor of the ordinance stating, "I think it's good that we have both opinions here and I was glad to hear that." Once again, he stated the "legal holes" that he found in this document. He noted that the ordinance needed to have a definition of "sign" for starters. He continued with who will monitor light, what is the definition of modified and so on. Siddel also addressed the enforcement issue. Mayor Calandrucchio asked the Board to provide the information requested by Siddel. Trustee Wylesky said that she had received two complaints. One from John and Donna Bruce, owners of Snowshoe Lodge and Wylesky could not recall who made the second complaint.

Ed Vita, Creede resident. Vita read the following statement, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof or abridging the freedom of speech or of the press or the right of the people to peaceably assemble and to petition the government for a redress of grievances." Vita feels that many people sitting here are asking Council to redress a grievance which is, "Get rid of this stupid sign ordinance and the time wasted with it." Vita continued, "You are not redressing the grievance, you are breaking the first amendment of the Bill of Rights of the Constitution of the United States."

Ramona Weber, owner of The Wild Beaver liquor store, Creede. Weber is neither for nor against the sign ordinance. She wanted clarification of some of the items in the ordinance such as modification; does this include painting and what about the lighting some businesses use for security cameras?

Kim Nagy, Creede resident and co-owner of Kips Grill, Creede. Nagy did not identify if she is for or against the ordinance. She wanted to clarify what is allowed as far as her posting flyers for upcoming entertainment at her establishment. Her concern is not getting the flyers removed timely after the event has taken place (within 48 hours).

Angela Hague, Creede property owner. Hague feels adopting the sign ordinance is "putting the cart before the horse." She feels the community should first be unified in addressing the mining history of the Town and what visual legacy we want to leave behind.

Trustee Shepperd moved and Trustee Wylesky seconded to close the public hearing. The vote was unanimous. Mayor Calandrucchio declared the motion carried.

City Manager Dooley noted that the ordinance is not clear on what a permit fee would be. Henry Brink added that when he was on the Planning Commission working on this document, they looked more at the process to receive a permit and not necessarily a fee for the permit. Trustee Gant moved and Trustee Keller seconded to take the information from the public hearing and discuss the sign ordinance verbiage further at the next work session. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

City attorney Gibbons reminded the Board that the deferment of enforcement of Ordinance 345 expires tonight. Trustee Wylesky moved and Trustee Gant seconded to defer enforcement of Ordinance 345 for thirty days. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

(Clerk's note: Enforcement of Ord.345 is deferred until August 7, 2008.)

OLD BUSINESS

FLUME REPAIRS

After Mayor Calandrucchio briefed the Board and the audience on the ideas that have been presented for the repair of the Willow Creek flume so far, it was agreed that this item should be further discussed at the next work session.

STREET SIGN POSTS

Public Works Director, Ben Davis, was unable to attend this meeting to further discuss this issue with the Board. It was agreed by the Board to discuss it in a future work session.

NEW BUSINESS

PARADE PERMIT REQUEST – SNOWSHOE SHUFFLE RACE – AUGUST 2, 2008

Trustee Shepperd moved and Trustee Keller seconded to approve the parade permit for the snowshoe shuffle race. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

SPECIAL EVENTS PERMIT REQUEST – CREEDE HISTORICAL SOCIETY

Trustee Shepperd moved and Trustee Brink seconded to approve the special events permit for a “Bar Bash” fundraiser to be held on August 23, 2008 at the Creede Historical Museum. By roll call vote: KL yes, EG yes, DW no, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

CHANGE OF MANAGER/TAVERN – ARCHIBALD’S EXCHANGE, LLC d/b/a MAC’S OLD MINE

Trustee Brink moved and Trustee Shepperd seconded to approve the change in tavern manager registration from Laura Archibald to Edward A. Vita. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

RESOLUTION 08-09, PINE RIVER VALLEY BANK (PRVB) BANKING RESOLUTION

This resolution allows the City Treasurer to, in addition to other powers of authority; administer internet cash management with PRVB for the purpose of online initiating, reviewing and settling all banking transactions undertaken by the Municipality.

Trustee Shepperd moved and Trustee Gant seconded to approve resolution 08-09. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

CONSIDERATION TO DRAFT A RESOLUTION TO ALLOW “TASTINGS” FOR RETAIL LIQUOR STORE OR LIQUOR-LICENSED DRUGSTORE LICENSEES §12-47-301(10), C.R.S.

Trustee Lehman moved and Trustee Brink seconded to draft language for a resolution at the next work session. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

ACCOMPLISHMENTS LETTER/ARTICLE OF WHAT LOCAL GOVERNMENT IS DOING

City Manager Dooley explained the reason this letter was drafted and asked permission from the Board to publish it and/or post it for the public to read. Trustee Keller explained that she had requested a list of accomplishments from Dooley so that it could be published and/or posted. Mayor Calandrucchio read the document aloud.

Trustee Gant moved and Trustee Wylesky seconded to approve this document to be published in the newspaper as well as to be posted. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

AMEND ORDINANCE 182, 2-1-2

Trustee Brink moved and Trustee Gant seconded to amend ordinance 182, 2-1-2 to allow the members of the city council work session committee to elect a chair and a vice-chair for this committee.

City Attorney Gibbons advised the Board that to amend an ordinance it would have to be reduced to writing and go through the process to adopt it. Trustee Brink retracted this motion and moved and Trustee Gant seconded to take this issue to the work session where an amended ordinance can be drafted. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

While in conversation with an unidentified member of the audience asking how public can participate in the vote or make an opinion on this issue, Mayor Calandrucchio said, “The only process the community has is

basically its voting during election periods and recalls..." Calandrucchio continued, "In my suit against the city council I will be asking the courts to make a decision for dismissal as well as a judgement of punitive damages and legal fees."

Brink withdrew her motion on this issue/withdrawing this issue altogether.

AMEND ORDINANCE 182, CHAPTER II 2-2(b)

Trustee Brink explained that this is for "housekeeping" purposes to allow four members of the council to call a special meeting. City Attorney Gibbons explained that if the city had adopted the municipal code, that change is included. Brink chose to let this issue be handled through the municipal code process.

MOTION TO REQUEST REPORTS BY CITIZENS, COUNCIL OR MAYOR TO BE IN WRITTEN FORM IN PACKETS

Trustee Wylesky stated that the city council is a legislative meeting where the council is asked to take action on a number of subjects. We are requesting that items that do not require council's actions be submitted in a written form and the council may ask questions needed to clarify any items contained in the written report. (Sic) Trustee Wylesky moved and Trustee Shepperd seconded to request that items that do not require the council's actions be submitted in a written form and is included in the Board packets. Questions were asked and answered. There was a discussion. Wylesky withdrew her motion and let the issue drop.

CITY MANAGER'S REPORT

The items discussed and the actions taken were as follows: Financial Information FYI will go to the work session.

General Obligation Bond request for direction will go to the work session and Josh Magden of George K. Baum Company will be invited.

International Energy Conservation Code (IECC) request for administrative direction will go to the work session.

La Garita paving request for administrative direction. Trustee Gant moved and Trustee Keller seconded to approve and appropriate \$140,827 to be spent on this project out of the Capital Improvement Fund (CI) and for the Mayor to sign the contract. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

Change the night of the city meetings request for administrative direction. Unanimously the Board agreed to say no.

Norm Higley, Environmental Attorney request for administrative direction. City Manager Dooley explained that Higley is no longer available to the city as legal counsel concerning the Creede Resources property. Higley, in his letter of withdrawal from the city, included some suggestions for replacements. There was a discussion about Eric Heil. Mayor Calandrucchio used his veto power pursuant to State statute and read a formal response to his rejection of the signing of the contract with Eric Heil to work for the city as a planner for the Creede Resources property. Calandrucchio stated "City of Creede Council I am rejecting the signing of the contract with Eric Heil for the following reasons" and proceeded to list six reasons. Trustee Shepperd responded to each of the six reasons. Trustee Brink challenged Calandrucchio's veto by quoting § 31-16-104 C. R. S., "...any ordinance adopted and all resolutions authorizing the expenditure of money or entering into of a contract require the approval and signature of the mayor before they become valid..." Brink reminded Calandrucchio that he has already signed the contract and these monies are specific to this project and cannot be used elsewhere. Trustee Gant moved and Trustee Wylesky seconded that the agreement, notwithstanding the Mayor's objections, be passed. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried. Trustee Shepperd moved and Trustee Lehman seconded to hire Eric Heil in the capacity of an environmental attorney. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried.

All Terrain Vehicle (ATV) designated route request for administrative direction. There was a discussion and consideration of public input. Sheriff Hosselkus was consulted. Trustee Gant moved and Trustee Wylesky seconded to reject this request. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor

Calandrucchio declared the motion carried. Dooley was directed to send a letter to Don Howard of Continental Divide Services, Inc. (CDSI) to inform him of the Board's decision to reject his request.

The Trustees agreed to have their regular work session on Wednesday, July 30, 2008 at 5:30 PM.

This report had other informational only items in it as well.

EXECUTIVE SESSION

Trustee Brink moved and Trustee Wylesky seconded at 9:15 PM to go into executive session for the purpose of attorney conferences, § 24-6-402(4)(b), C. R.S. By roll call vote: KL yes, EG yes, DW yes, JK yes, RS yes, DB yes. Mayor Calandrucchio declared the motion carried. Advised by City Attorney Gibbons, the clerk was told not to record this session because of attorney-client privilege.

Trustee Shepperd moved and Trustee Gant seconded at 9:18 PM to come out of executive session and return to regular session. The vote was unanimous. Mayor Calandrucchio declared the motion carried.

ADJOURN

There being no further business to come before the Board of Trustees at this time, Trustee Brink moved and Trustee Wylesky seconded that the meeting be adjourned at 9:18 PM. The vote was unanimous. Mayor Calandrucchio declared the motion carried.

Respectfully submitted:

Pamela J. Wilson, City Clerk/Treasurer