

**BOARD OF TRUSTEES
CITY OF CREEDE, COLORADO – A TOWN
September 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 5:30 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
Benjamin Gibbons, Attorney
Ben Davis, Public Works Director

REVIEW AGENDA

Eric Czaikowski's update of the water line project will be added to the read only reports under Reports and Presentations. Mayor Roughton-Miles added (h) to Old Business for the Board to discuss draft Ordinance 360, USA Communication Franchise Fee Agreement. Trustee Zurn moved and Trustee Wylesky seconded to approve the agenda as amended. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

APPROVAL OF AUGUST 10, AND 26, 2010 MINUTES

Trustee Zurn moved and Trustee Wylesky seconded to approve the minutes of August 10, 2010 as amended (the last line was stuck from the planning and zoning commission recommendation item). The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

Trustee Wylesky moved and Trustee Powell seconded to approve the minutes of August 26, 2010 as presented. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

MONTHLY DISBURSEMENTS

APPROVAL/DISAPPROVAL OF PROFESSIONAL SERVICES INVOICES INCLUDING OTHER INVOICES AS NECESSARY FOR CHECKS TO BE WRITTEN AND SIGNED FOR THE DATE INDICATED ON THE UNPAID BILLS LIST

Trustee Zurn moved and Trustee Grossman seconded to approve the unpaid bills detail as of September 14, 2010 not including McLaughlin Water Engineers, LTD invoices. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

CONSENT OF THE PREVIOUSLY PAID DISBURSEMENTS ON THE AUGUST 2010 CHECK DETAIL REPORT

Trustee Zurn moved and Trustee Skroch seconded to consent to the previously paid disbursements on the August 2010 check detail report. The vote was unanimous. Mayor-Roughton-Miles declared the motion carried. The clerk asked the attorney and the Board of the status of the sub-contractor's checks that had been previously approved and written, but were being held. The attorney said to continue to hold the checks and he would discuss this further with the Board in the executive session scheduled later in this meeting.

REPORTS AND PRESENTATIONS

PUBLIC WORKS REPORT

Public works director, Ben Davis was available to answer questions about his report. Davis was asked to follow-up with Todd Stockebrand of Asphalt Constructors Inc. (ACI) in Alamosa about paving the streets in town affected by the Phase II water line replacement project. The Board discussed that there may be a change order if RMS will be hauling the hot mix for their phase of the project.

BUILDING INSPECTOR'S REPORT

Mike Kolisch, the Town's building inspector was not available to answer questions about his report. Kolisch arrived later in the meeting to address some items in the Manager's report

CHAMBER BUILDING COMMITTEE REPORT AND RECOMMENDATION

No one from the Chamber's building committee was available to speak on behalf of that committee. Anne Pizel of the Chamber Board was available to explain that that committee is defunct and will no longer convene. The Board directed to find somebody with a plan to remedy the problem with the chamber building. Pizel said she would tell the chamber Board.

WRITTEN REPORTS

This item includes written reports from Chamber, Recreation, Community Center, WCRC and an email update from Czaikowski on the water line replacement project. These reports are to be read at the Board's leisure.

OLD BUSINESS

PARADE PERMIT APPLICATION FOR STREET CLOSURE – CREEDE COMMUNITY CENTER – ATV POKER RUN

Trustee Zurn told the clerk that Lonnie Rogers of the community center withdrew this application.

HEIKE WILSON PROPERTY ACCESS REQUEST

Anne Pizel as Wilson's representative was available to discuss this issue with the Board. The Board had taken action at the last regular meeting to not approve the access request. Why each member of the Board voted the recommendation down may be for different reasons; nonetheless, the Board denied the access. Pizel said she was unaware that they were on that agenda. Pizel argued that a quick email notification/reminder would be appreciated. Mayor Roughton-Miles said to move this discussion to another time if the Board agrees to do so.

WILLOW CREEK RECLAMATION COMMITTEE (WCRC) OFFICE SPACE RELOCATION

Mayor Roughton-Miles had previously presented a proposal to the Board for the relocation of WCRC from the meeting room space to the current public works office space. Marvin "Zeke" Ward spoke on behalf of the committee telling the Board that they prefer to stay where they are. Any space the committee uses at Town Hall is considered in-kind donation. Roughton-Miles told Ward that there may be times when she is in the meeting room with the manager or other employees that WCRC may be asked to please leave. It was agreed that there will be no change in willow creek's work space at this time.

APPROVAL/DISAPPROVAL OF BIDS TO REMOVE HOMESTAKE BUILDINGS

Trustee Zurn moved and Trustee Wylesky seconded to not accept either of the two bids received at the August meeting be accepted. The vote was unanimous. Mayor Roughton-Miles declared the motion carried. One of the contractors was present at the meeting and the clerk will notify the other contractor of the Board's decision.

Trustee Zurn moved and Trustee Wylesky seconded to re-open to receive proposals/bids for the removal of the Homestake buildings and all interior items to the end of business on November 5, 2010 to be opened at the November 9, 2010 meeting. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

APPOINT BOARD OF APPEALS

Mike Kolisch arrived prior to this discussion and was asked to speak about this item.

It was discussed that the following persons will be appointed to the Creede town Board of Appeals to hear appeals on decisions made by the building inspector and the building official/Land Use Administrator based on the 2006 International Building Code (IBC) and the International Residential Code (IRC): Avery Augur, Architect/Developer; Denis Powell; and Jason Vinyard, contractors. The Mayor suggested discussing this further and clarifying the difference between the statutory requirement of the Board of Adjustments (BOA) and the non-statutory creation of the Board of Appeals at the next work session. Kolisch and Attorney Gibbons have both been asked to attend.

SCHEDULE A PUBLIC HEARING FOR ORDINANCE 361, AN ORDINANCE OF THE CITY OF CREEDE, COLORADO, PROHIBITING THE LICENSES AND OPERATION OF MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISE CULTIVATION OPERATIONS AND MEDICAL MARIJUANA INFUSED PRODUCTS MANUFACTURERS WITHIN THE CITY LIMITS OF CREEDE, COLORADO

The Board agreed to hold this public hearing at the October 12, 2010 regular meeting of the Town Board.

STATUS OF MCLAUGHLIN WATER ENGINEERS LTD PROFESSIONAL SERVICES AGREEMENT

The Board had previously directed the Mayor to sign this agreement after it had been approved by the attorney, which it has. Mayor Roughton-Miles wanted to discuss some of the verbiage in the agreement with the Board prior to signing. The Board listened to Roughton-Miles' explanation of how she understands the agreement to read, then the Board again directed Roughton-Miles to sign the Agreement for Engineering Services for the Water Distribution Improvements-Capital Project. Roughton-Miles added that she feels that contract three is not to exceed \$44,000 and she will not sign any checks to McLaughlin over a total of \$77,000 (not to exceed amounts for contracts three and four). The clerk was directed to pay McLaughlin's invoices appearing on the unpaid bills detail as of September 14, 2010.

STATUS OF ORDINANCE 360, FRANCHISE FEES AGREEMENT WITH USA COMMUNICATIONS

Trustee Grossman has been trying to negotiate this agreement with USA Communications, but is having a difficult time reaching the person he needs to start a dialogue with. This item will be tabled until Grossman notifies the clerk that he has contacted USA Communications and provides drafts (amended or not) of the agreement and the ordinance to be placed on the agenda. The next step will be for the Board to approve the draft documents and set a public hearing for Ordinance 360.

EXECUTIVE SESSION

Trustee Grossman moved and Trustee Powell seconded to adjourn regular session and go into executive session for the purpose of attorney conferences §24-6-402 (4) (b) C. R. S. at 7:10 p.m. The vote was unanimous. Mayor Roughton-Miles declared the motion carried. Both attorney Gibbons and Susan Eisenhoffer of Colorado Intergovernmental Risk Sharing Agency (CIRSA) were invited into executive session.

Trustee Grossman moved and Trustee Wylesky seconded that the Board adjourn executive session and return to regular (open) session at 7:34 p.m. The vote was unanimous. Mayor Roughton-Miles declared the motion carried. Mayor Roughton-Miles explained the reason they went into executive session mid-meeting was to receive legal advice on some upcoming items.

NEW BUSINESS

QUILT SHOW SIGN REQUEST

Carolyn Flood of the Quilt Guild presented her request to place signage for the quilt show on town streets only. It was suggested by the Mayor and agreed upon by the Board to leave the placement of the signs open to wherever they need to be placed depending on the construction barriers and the use of Main Street for the car show.

LIQUOR LICENSE RENEWAL – THE WILD BEAVER (RAMONA DEPRIEST-WEBER)

Trustee Powell moved and Trustee Grossman seconded to approve the renewal of retail liquor store license for The Wild Beaver. There were five yes votes and one no vote (Wylesky). Mayor Roughton-Miles declared the motion carried.

PLANNING COMMISSION RECOMMENDATIONS (2)

[1] Sidel Conditional Use: the Board is not to approve or disapprove this recommendation at this meeting, but rather to schedule a public hearing for the conditional use and to consider this recommendation at that time. The Board set the conditional use public hearing for November 9, 2010 at the regular meeting. [2] Petersen Quiet Title Action: recommending that the Board of Trustees not sign the waiver and also obtain a copy of the records of vacating Third Street and the City deed to Lot 15 Block 5 (parking lot). The Attorney commented that this item should not have gone before the Planning and Zoning Commission. Gibbons also told the Board that the

receipt of the *Complaint to Quiet Title Under Rule 105* via U.S. Mail does not constitute legal service. Matthew K. Hobbs, the attorney for the plaintiffs (Petersens) will attend the September 28, meeting and work session. This item will be discussed further at the work session and the Special Meeting on September 28, 2010, too.

ORE CAR INCIDENT

It was explained to the audience that the city does not, nor has ever owned the ore car where the incident happened nor has that property ever been declared a public park or designated a public recreation area. The Days of '92 Committee has said they will pay one half of the damages/claims of the injured parties if the City will pay the other one half. The Board agreed they would take action at their Special Meeting on September 28, 2010.

ELKS LODGE #506 REQUEST FOR THE CITY TO SPLIT THE COST OF THE PORTABLE RESTROOMS FROM THE 4TH OF JULY WEEKEND

Trustee Skroch moved and Trustee Wylesky seconded to pay the Elks two hundred fifty dollars. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

SCHEDULE A SPECIAL MEETING TO RECEIVE AND TO ACCEPT THE 2009 CITY AUDIT

The Board agreed to schedule the receipt of the 2009 city audit at the September 28, 2010 Special Meeting at 5:30 p.m. prior to the work session.

CLERK'S MEMORANDUM REQUESTING MEETING/CONFERENCE APPROVAL AND RSVPs FOR THE CML DISTRICT 8 MEETING

Trustee Wylesky moved and Trustee Zurn seconded to approve the clerk's entire memorandum. The vote was unanimous. Mayor Roughton-Miles declared the motion carried. Some RSVPs were received. The deadline for them is this coming Friday.

MANAGER'S REPORT

Manager Dooley was not present at this meeting as he was on a pre-approved vacation.

The items discussed and the actions taken were as follows:

SLVREC WEATHER KITS – DIRECTION: The Board asked Wilson or Davis to notify Dave Mixa at San Luis Valley Rural Electric Cooperative (SLVREC) that the city will accept these kits and distribute them as a joint venture with the REC. The clerk will get with Dooley when he returns and put a notice in the paper that the kits are available to town residents at this time (perhaps opening them up to the county residents at a later date).

CREEDE ART PARK – DIRECTION: Splitting the cost with the Creede Arts Council is a good option. Trustee Zurn said she will talk with Jessica Baron, Director of the Arts Council to see if they have a plan and/or have budgeted for this reoccurring electric bill. Invite Baron to the work session.

BUILDING PERMIT COMMITTEE RECOMMENDATION – DIRECTION: Kolisch spoke to the Board about this recommendation. Trustee Powell moved and Trustee Wylesky seconded to approve the recommendation of the Committee to remove item four (4) under permits not required on the *Requirements for Building Permits* document and in addition to decrease two hundred (200) to one hundred (100) in item one (1) under permits not required of the same document. There were five yes votes and one no vote (Grossman). Mayor Roughton-Miles declared the motion carried.

SLVREC - DIRECTION: The Board gives Dooley direction to retire electric meter number 4201W250340 for the old Homestake pumping station at the bottom of Windy Gulch. The city will order new service for the Art Park.

WORK SESSIONS: The Board will hold their regular work session on Tuesday, September 28, 2010 following a Special Meeting at 5:30 p.m.

This report also contains several information only items as well financial reports for the Board members to review.

PUBLIC COMMENT PERIOD (BY SIGN IN SHEET)

No one had signed in to speak tonight.

EXECUTIVE SESSION

Trustee Zurn moved and Trustee Wylesky seconded to adjourn regular session and go into executive session for the purpose of attorney conferences §24-6-402 (4) (b) C. R. S. at 8:38 p.m. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

Trustee Zurn moved and Trustee Wylesky seconded to come out of executive session at 9:07 a.m. and return to open session. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

ADJOURN

There being no further business to come before the Board of Trustees at this time, Trustee Wylesky moved and Trustee Powell seconded that the meeting be adjourned at 9:07 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