

Town of Estes Park, Larimer County, Colorado, May 13, 2008

Minutes of a Regular meeting of the Board of Trustees of the Town of Estes Park, Larimer County, Colorado. Meeting held in the Town Hall in said Town of Estes Park on the 13th day of May, 2008. Meeting called to order by Mayor William C. Pinkham.

Present: William C. Pinkham, Mayor
Chuck Levine, Mayor ProTem
Trustees Eric Blackhurst
Dorla Eisenlauer
John Ericson
Richard Homeier
Jerry Miller

Also Present: Attorney Greg White
Jacquie Halburnt, Town Administrator
Lowell Richardson, Deputy Town Administrator
Jackie Williamson, Town Clerk

Absent: None

Mayor Pinkham called the meeting to order at 7:00 p.m. and invited any person desiring to participate to stand and recite the Pledge of Allegiance.

PROCLAMATION:

Mayor Pinkham read a proclamation for Arbor Day and proclaimed May the month of the Tree.

PUBLIC COMMENT

David Habecker/Town Citizen stated he has requested the Town Board refrain from reciting the Pledge of Allegiance at the beginning of their meetings. Now in addition to that request, he asked the Board to send a letter to the State Representatives stating the Trustees of Estes Park are no longer able to recite the Pledge due to the violate of the Constitutional guarantee of freedom from religion. He also requested the Town publicly apologize for any offense caused by the recitation of the Pledge and for the recall.

TOWN BOARD COMMENTS

Trustee Blackhurst reminded the public that the Estes Park Housing Authority would meet Wednesday, May 14th at 8:30 a.m. in Room 203.

1. CONSENT AGENDA (Approval of):

1. Town Board Minutes dated April 22, 2008 and Joint Town Board and EPURA Study Session dated April 30, 2008.
2. Bills.
3. Committee Minutes:
 - A. Public Works, April 24, 2008:
 - a. Policy Manual – Cash in Lieu of Construction for Required Improvements.
 - b. Prospect Ave. Surveying/Engineering – Cornerstone Engineering & Surveying, \$8,500 – Budgeted.

B. Community Development, May 1, 2008:

CVB

1. Estes Park Fun Run Festival, June 14, 2008.
2. Praise in the Park Concert, June 20, 2008 and July 25, 2008.

MUSEUM

1. New Sign, DaVinci Sign System, \$12,552 – Budgeted.

C. Utilities, May 8, 2008:

1. Small Wind Energy Pilot Agreement, \$25,000.
2. 2009 Ford Escape 4x4 Hybrid, \$27,179 – Budgeted.
3. Policy Manual - Net Metering Policy and Interconnection Agreement.

It was **moved and seconded** (Levine/Miller) **the Consent Agenda be approved**, and it passed unanimously.

2. REPORTS AND DISCUSSION ITEMS:

1. **Cash in Lieu of Construction for Required Improvements.** Director Zurn reviewed the policy that would allow developers to pay cash for required improvements such as sidewalks for an in-fill lot. These improvements would be completed in the future when additional improvements are made in the area for which the cash was being held.
2. **Town Hall Light Fixture Upgrade.** Director Zurn stated the Platte River Power Authority “Lighten Up” program has paid for approximately 50% of the cost to replace the light fixtures in Engineering, Administration and Community Development. The new fixtures will save the Town 42,900 kWh and reduce the annual electric bill by \$3,697. A third phase will be completed in 2009.
3. **Wind Energy.** In March, the Light & Power Department submitted a letter to the Governor’s Energy Office indicating an interest in partnering on a Small Wind Energy Pilot Project. The L&P has been selected to participate in this 50/50 cash incentive program with an agreement to match up to \$25,000 to be used for the promotion and a \$5,000 cap per installation. Per the GEO the equipment must conform to the land use policies of the local governing body.
4. **Net Metering Policy and Interconnection Agreement.** Director Goehring commented the policy would credit the customer at one kWh for one kWh produced month-to-month for up to one year. The policy stipulates if a customer has produced any net excess electricity at the end of one year, the Utility would purchase the electricity from the customer at the Utilities avoided cost. The proposed Interconnection Agreement provides a mechanism that allows the connection of privately owned and maintained renewable Energy sources such as wind and solar to connect to our distribution system in a safe manner.
5. **Campground Shuttle Route, Estes Park Campground Stop.** Town Administrator Halburnt stated the Town has entered into the third year of a three-year program to provide a shuttle bus system to the public during the summer season. The campground route was added to the system in 2007. Complaints were received shortly after the addition from the residents on Hwy 66, specifically regarding the EP Campground stop. In the spring of 2008, the residents continue to complain and have asked that the bus stop be eliminated from the route and/or use smaller buses for the route to address their concerns with safety, speed and noise. Highway 66 is classified as a minor collector to provide a connection between destinations and as such the roadway is adequate to support a transit system. Smaller buses would not adequately serve the route and a two hour route would not be viewed by users as reliable. A successful transit system should be consistent.

Deputy Town Administrator Richardson commented the Police Department has been collecting base ambient roadway noise levels and speed data. The average ambient noise level for the roadway has been measured at 72 dba, an allowable noise level range. The noise from the diesel buses range from 68 to 73 dba. Staff has located a gasoline powered 25 passenger bus at a cost of \$2,000/month with maintenance an additional cost.

Carol Beidleman/County Resident was present to represent the neighborhood on Hwy 66. She reiterated that the Tunnel Road residents would like the EP Campground stop eliminated as a shuttle stop due to the noise, safety and speed of the buses. She stated the Town has overreached its authority with the shuttle system that extends into a county residential area. The neighborhood complaints included the buses were too big, loud, fast, frequent, disruptive, irritating, inefficient, wasteful and polluting. The residents contend that the bus drove by mostly empty in 2007. The neighborhood requests the Town address their concerns and if the stop can not be eliminated they would propose smaller buses less frequently.

Matt Riley/Estes Park Campground Concessionaire commented the shuttle service provides service for campers that do not have a car, eliminates increased traffic from guest that chose to drive their large vehicles to town or to the National Park and provides transportation for employees, family and friends to the campground. The campground received 100% positive support for the shuttle that provided reliable transportation to town to purchase supplies, shop and dine. The free shuttle has become a “reservation decision maker” for many of the campgrounds customers. He stated the shuttle numbers will grow as the route is advertised and tourist become more aware of the service.

Trustee comments were heard and are summarized: the three year experimental program has provided information on the problems and successes of the program; the feedback is appreciated and will help facilitate a future capital program during the upcoming budget cycle, a gas powered bus may be an acceptable solution to address the noise concerns, if ridership continues to be low the route should be adjusted, would like staff to investigate the possibility of only stopping at the campground every other hour, the campground stop is important and should be maintained, the service is needed in the community, the continuation of a shuttle system is an advantage for Estes Park now and in the future.

Administrator Halburnt stated that if you increase the campground stop to every two hours ridership will decrease and the stop should then be deleted. Staff will come back to the Board with final costs of the gas powered bus.

3. ACTION ITEMS:

1. APPOINTMENT: ESTES PARK HOUSING AUTHORITY.

Trustee Blackhurst/Chairman of the Housing Authority requested the appointment of Matthew Heiser for a five year term commencing on May 14, 2008 and expiring on May 14, 2013. It was **moved and seconded** (Blackhurst/Levine) **to approve the appointment**, and it passed unanimously.

2. RESOLUTION #09-08 ESTABLISHING A SPECIAL REVENUE FUND – FIRE FEES AND RESOLUTION #10-08 APPROVING SUPPLEMENTAL BUDGET APPROPRIATION.

Finance Officer McFarland stated the creation of the Fire Services Special Revenue Fund would aid in allocating funds collected for fire services and allow the fund to carry over from year to year for purposes set forth by the Fund during the budget process. The fund would also segregate fire activities

previously listed in the General Fund and transfer budgeted revenues and expenditures to the newly created fund. The new account would require a transfer from the General Fund in an estimated amount of \$800,000. The fire service billing is estimated to yield approximately \$125,000 for a total of \$925,000. The 2008 Fire Department budget was approved for \$921,027. Minor adjustments have also been made including the addition of interest and the increase in the purchase price of the budgeted fire truck.

Trustee Blackhurst requested the entire 2008 budget of \$921,000 be transferred to the new fund. This would allow the fund to retain the fees paid in 2008 for fire services in the county. Trustee Homeier agreed stating the reduction in General Funds to the new account gives the perception that county fees are indirectly going into the General Fund.

Bill Van Horn/Task Force representative reiterated without the approved 2008 budget amount transferred to the new account, the perception would be a diversion of fire subscription fees paid by county residents into the Town's General Fund. The county residents want assurance that the funds raised by the subscription would be used for fire services only. He also expressed a concern with the reduction of donations received by the firefighters.

Jim Austin/Task Force representative restated the subscription fee would eliminate donations used by the firefighters to buy equipment at their discretion. He would encourage the Board to refund money to the volunteer firefighters for the donations lost.

Mike Richardson/Volunteer Firefighter commented the donations have decreased. He stated concern that the new subscription fee would decrease Town funding for the Fire Department.

David Habecker/Town Citizen questioned the need to transfer the entire 2008 budgeted funds. He understood the subscription fee was needed to reduce the Fire Department's reliance on the General Fund.

It was **moved and seconded** (Eisenlauer/Ericson) **to approve Resolution #09-08** and it passed unanimously.

It was **moved and seconded** (Blackhurst/Miller) **to approve Resolution #10-08 with the appropriation to be amended from \$800,000 to \$921,000 as budgeted in 2008**, and it passed unanimously.

3. BARK BEETLE ORDINANCE #08-08.

Director Zurn commented the Mountain Pine Beetle is beginning its proliferation in the Estes Valley and its immediate adjacent forests. The Town is in a position to decide to actively manage this infestation through education, identification and enforcement. The proposed Ordinance would authorize staff to regulate the management of the beetle on privately owned properties. The Ordinance is similar to the current State and County regulations that are enforceable within Town limits. Resources for these agencies are limited. Therefore, the proposed Ordinance would be enforceable within the Municipal Court and if required as a referral to the Larimer County Forester's office. The process was reviewed as outlined in the Ordinance.

Mike Richardson/Town Citizen questioned who would be responsible for removing the trees and if the air curtain burner would be available to contractors. He stated local contractors should be used when possible. Director Zurn stated the air curtain would be available to dispose of any tree within the valley.

Frank Theis/Town Citizen expressed a concern with the potential of a different level of enforcement for property owners within Town limits versus the County.

Attorney White read the Ordinance. It was **moved and seconded** (Blackhurst/Levine) **to approve Ordinance #08-08**, and it passed unanimously.

Mayor Pinkham called for a break at 10:05 p.m. and reconvened the meeting at 10:13 p.m.

4. **RESOLUTION #11-08 APROVING THE ESTES PARK URBAN RENEWAL AUTHORITY CONDITIONS ANAYLSIS (BLIGHT STUDY) AND PLAN.**

A joint meeting of the Town Board and the EPURA was held on April 30, 2008 with discussion including changes to the Urban Renewal Area. EPURA recommends revising the map to include the addition of the Stanley Park ball fields, the old elementary school building and a triangular area east of the intersection of Highway 36 and St. Vrain Avenue. EPURA opposes the elimination of the businesses on East Elkhorn Avenue as the façade improvement program should be available to all businesses downtown. The Conditions Analysis provides no justification for inclusion of Lots 4, 5 and 6, Stanley Historic District or Stanley Village. Director Smith stated he received public comment this morning to include the Stanley Hotel Carriage House within the new URA plan.

Trustee Blackhurst requested clarification as to the inclusion of the Elkhorn Avenue corridor. Director Smith stated the downtown corridor was included to address aging infrastructure and to provide seed money for a potential façade program. EPURA Chairman Swank commented the inclusion of the entire downtown provides equal opportunity for improvement in the future. EPURA Commissioner Wilcocks stated there may be an unforeseen improvement in the next 25 years to the downtown corridor.

Town Attorney White stated the boundaries of the new plan must be contiguous for TIF financing. In 1988, the Town and EPURA entered into a cooperation agreement providing review of EPURA projects by the Town Board through a concept review.

Bill Van Horn/County Resident requested the inclusion of the Stanley Village.

Byron Hall/Town Citizen requested the inclusion of the Stanley Carriage House for the benefit of the Stanley Museum.

Marie Richardson/Town Citizen questioned how EPURA affects property owner rights. Administrator Halburnt stated projects would only be public improvements unless the property owner agrees to a public/private partnership. Attorney Benedetti stated eminent domain can be used by the Authority with the Town Board's approval.

Dick Brett/Town Citizen questioned the need to include Lots 4, 5 and 6 Stanley Historic District as the area does not contain development and therefore not blighted.

Mayor Pinkham noted that letters have been received from the School Board, Library Board and the Hospital Board for the discontinuance of EPURA.

Board comments included concerns with the façade program and the need for historical preservation, the uncertainty of the old elementary building, no urgency or immediate need for the continuation of EPURA, areas can be added later to the plan, without EPURA the Town would lose a funding source for public projects, additional information is needed prior to the new areas being

included in the plan, the Town needs to continue reinvesting in the infrastructure, EPURA provides financing options and the possibility of public/private ventures, the Board needs to work jointly with the EPURA Board on improvements.

Trustee Homeier questioned the renewal of the Authority at a time when there is no clear objective. EPURA has been misunderstood and there is significant skepticism amongst the community at this time. He does not support the continuation of EPURA.

It was **moved and seconded** (Ericson/Miller) **to approve Resolution #11-08 with the inclusion of the Stanley Park ball fields, the old elementary school building and a triangular area east of the intersection of Highway 36 and St. Vrain Avenue**, and it passed with Trustee Homeier voting “No”.

5. **PRELIMINARY SUBDIVISION PLAT TIME EXTENSION AND FINAL SUBDIVISION PLAT STONE BRIDGE ESTATES SUBDIVISION.**

Director Joseph reviewed the staff report. Town Board approved the preliminary subdivision plat on November 27, 2007 with staff conditions. The plat would subdivide the 4.9-acre parcel into three separate lots. The northern lot, where the Van Horn Engineering building is located, would be one lot and the southern two lots would be developed in accordance with the approved Development Plan with 24 detached residential dwelling units. The final plat complies with the preliminary plat and the staff conditions including the approval of the flood plain map revisions from FEMA.

Corey La Bianca/Town Citizen stated FEMA flood insurance maps are developed for flood insurance and do not take into account whether or not an area would be a hazard or major flooding events. The local community has the option to establish more restrictive regulations that are above those of FEMA.

Dr. Ken Czarnowski/Town Citizen with 33 years of experience in Natural Resource Management and Water Resource Management with the Department of Interior expressed concern with the flood plain on this property. The Fish Creek Water Association request the final plat be continued to allow the Town’s official flood plain manager and the Association’s consultant to review the new FEMA map.

Attorney Randy Willard/representing the Fish Creek Water Association requested the Board give further consideration to the FEMA process, wildlife considerations and safety issues prior to making a decision on the subdivision.

Bob Trump/ Fish Creek Water Association President stated citizens have the right to object to safety standards along Fish Creek and object to the impact on the view corridors the development would have on the adjacent properties. He urged the Board to reconsider the subdivision.

Ron Norris/ Association of Responsible Development President read a statement from Larimer County Commissioner Randy Ubanks. He requested the Board consider the affects on wildlife and the quality of life for those living in Estes Park when making a decision on the Stone Bridge Estates subdivision.

Frank Theis/CMS Planning and Development and Bill Van Horn/Town Citizen stated the concerns raised are those related to an approved development plan.

It was **moved and seconded** (Homeier/Blackhurst) **to approve the time extension of the Preliminary Plat and the Final Subdivision Plat for Stone Bridge Estates Subdivision**, and it passed with Trustee Ericson abstaining.

6. **TOWN POLICY FOR USE OF TOWN FACILITIES.**

Deputy Town Administrator Richardson reviewed the current policy for use of Town meeting facilities. Currently the rooms are available for use by non-profit organizations, charitable organizations and other government agencies. There is no policy outlining acceptable uses of Town facilities. The proposed policy outlines acceptable uses, unacceptable uses, alcohol uses, appropriate fees and identifies staff members responsible for managing use of Town facilities. The room agreement and use form have been modified to include a non-refundable \$25 fee for the use of the Board room and the Training room and a \$50 per hour fee for staff time to operate the audio/visual room, if requested.

Board discussion is summarized: the Town Board room should not be used to promote a specific political candidate, candidate forums are an acceptable use, caucus trainings and town hall meeting are an allowable use of Town facilities, addition of E.5 – other recognized clubs/groups/individual, addition to policy to address a refund of fees when a meeting is cancelled by the Town.

The Town Board requested staff bring the policy back to the next meeting with suggested changes outlined above.

7. **TOWN ADMINISTRATOR'S REPORT.**

Attorney White reviewed the current status of lawsuits with David Habecker (Recall of Mr. Habecker), Fish Creek Water Association (Stone Bridge Development), Stanley Hotel (sale of Lot 4, Stanley Historic District and Technical Review of development proposal), Chamber of Commerce (Town's ability to market Estes Park).

8. **REQUEST TO ENTER EXECUTIVE SESSION:**

24-6-402(4)(b) and (e) C.R.S. - Conference with Town Attorney White for the purpose of receiving legal advice on specific legal questions and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators – Sale of Lot 4, Stanley Historic District .

It was moved and seconded (Levine/Blackhurst) the Town Board enter into Executive Session for the purpose of a conference with Town Attorney White to receive legal advice under C. R. S. Section 24-6-402(4)(b) and to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators Section 24-6-402(4)(e) with regard to the sale of Lot 4, Stanley Historic District, and it passed unanimously.

Whereupon Mayor Pinkham adjourned the meeting to Executive Session at 11:50 p.m.

Mayor Pinkham reconvened the meeting to open session at 12:10 a.m. and adjourned the meeting at 12:10 a.m.

William C. Pinkham, Mayor

Jackie Williamson, Town Clerk