

Town of Estes Park, Larimer County, Colorado, August 11, 2009

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 11th day of August, 2009. Meeting called to order by Mayor Pinkham.

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

Also Present: Greg White, Town Attorney
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 all desiring to do so, recited the Pledge of Allegiance.

PUBLIC COMMENT

Dave Albee/Town citizen spoke to the need for the Town to adopt an ethics policy.

Irene Little/League of Women Voters Recycling Committee informed the Board that over 15,563 plastic bags were saved in the month of July during the recycle bag challenge and just over 53,000 bags have been saved during the challenge. The LMV Committee was disappointed the Town would not hold a joint meeting with the County and Waste Management to discuss recycling because the LMV Committee contends the issue of recycling should be addressed by the Town as outlined in the Town Board Mission and Vision statements. She invited the community to attend an Open House this Saturday at 8:30 p.m. at the observatory.

David Habecker/Town citizen requested the Town Board stop promoting blind faith with the recital of the 'under God' Pledge of Allegiance at Board meetings.

TOWN BOARD COMMENTS.

Trustee Blackhurst reminded the public that the Estes Park Housing Authority would meet Wednesday, August 12th at 8:30 a.m. in Room 203. He stated the Bond Park Master Plan architect held a design charrette in which three different design proposals were reviewed. The designs would be refined and brought forward to the public for review on September 8th.

Trustee Homeier commented the Town Board study sessions are open to the public and are a good place to hear the Board's thoughts on issues and upcoming projects.

Mayor Pinkham thanked the Board for their efforts to bring forward positive changes and projects for the community and for their work during the study sessions. He commented the County and Waste Management have an agreement to address recycling and Commissioner Donnelly has been working to address the concerns of the Town as it relates to recycling.

1. **CONSENT AGENDA:**

1. Town Board Meeting Minutes dated July 28, 2009, Town Board Study Session dated July 28, 2009 and Town Board Pre-Budget Study Session Minutes dated July 24, 2009 and July 28, 2009.
2. Bills.
3. Committee Minutes:
 - A. Public Works, July 23, 2009:
 1. Temporary Easement, Undergrounding of Overhead Utility Services:
 - Lot 2, Murphy Subdivision of Amended Plat of Portion of Lot 20, Little Prospect Mountain, 350 Stanley Avenue.
 - Lot 7, Cumorrah Subdivision, 440 Moccasin Circle Drive.
 - Lot 7, Block 3, Country Club Manor Addition, 403 Columbine Avenue.
 - Lot 2A, Amended Lot 2, Murphy Subdivision of Amended Plat of Portion of Lot 20, Little Prospect Mountain, 753 Prospect Avenue.
 - Lot 2B, Amended Lot 2, Murphy Subdivision of Amended Plat of a Portion of Lot 20, Little Prospect Mountain, 755 Prospect Avenue.
 2. Temporary Construction Easement:
 - Lot 7, Block 4, Country Club Manor Addition, 403 Birch Avenue.
 - Lot 4, 5 and 6, Block 1, Country Club Manor Addition, 415 Elm Avenue.
 3. Temporary Construction Easement and a Permanent Access, Utility & Drainage Easement:
 - 1A, Block 4, Amended Plat of Lots 1, 2 & 3 of Block 4, County Club Manor Addition, 750 Prospect Avenue.
 4. Drainage Easement, Lot 17, Block 1, Fall River Estates, First Addition.
– **Withdrawn by Property Owner.**

Trustee Blackhurst requested Item 3.A.4 be removed from the Consent Agenda for discussion as an action item. It was **moved and seconded** (Levine/Miller) **to approve the Consent Agenda Items 3.A.1, 3.A.2 and 3.A.3**, and it passed unanimously.

Item 3.A.4 - Drainage Easement, Lot 17, Block 1, Fall River Estates, First Addition – Trustee Blackhurst requested clarification on why the item was being removed by the property owner. He stated Director Zurn had requested the easement and stated it was an important drainage easement. Town Clerk Williamson stated the original signed easement was not provided to the Town prior to the Town Board meeting because the engineer stated the easement had not been constructed and may change during the construction of the single-family home. It was **moved and seconded** (Blackhurst/Eisenlauer) **to approve the Consent Agenda Item 3.A.4.**, and it passed unanimously.

2. **REPORTS AND DISCUSSION ITEMS:**

1. **TOWN ADMINISTRATOR REPORT.**

The Initiated Ordinance to abolish EPURA was certified by Clerk Williamson and would be brought to the Board for action on August 25, 2009. The Board would have three options; adopt the Ordinance, set an election for the coordinated election in November or set a special election.

3. **ACTION ITEMS:**

1. **RESOLUTION #15-09 TEMPORARY MORATORIUM FOR WIND TURBINES.**

Attorney White reviewed the Resolution that would place a temporary moratorium of 120 days on the issuance of any building permits related to wind turbines. There are no pending applications for building permits for wind turbines at present; however, five vertical helix wind turbine applications have been issued by the Town. This temporary moratorium would not affect the installation of those wind turbines. This moratorium would only be effective within town limits.

Director Joseph stated a public meeting has been scheduled for August 13, 2009 at 6:00 p.m. to discuss regulations of wind turbines. The County has addressed the issue of wind turbine regulations and currently allows them with height and setback requirements. He stated Homeowners Associations (HOAs) cannot regulate wind turbines because the state can preempt HOAs ability to regulate.

Trustee Homeier stated concern with the Town moving forward with a moratorium after offering rebates to electric customer to erect wind turbines. He suggested the Town move forward with developing regulations while allowing turbines to be erected.

The Board discussed the timeframe of the moratorium and whether or not it provided sufficient time to address and develop regulations. After further discussion, **it was moved and seconded** (Levine/Miller) **to approve Resolution #15-09**, and it passed with Trustee Homeier voting “No”.

2. **LOT 4, STANLEY HISTORIC DISTRICT – TECHNICAL REVIEW COMMITTEE LAWSUIT – SETTLEMENT PROPOSAL.**

Attorney White presented the Board with a stipulation agreement from the New Stanley Associates, LLLP that would lead to the dismissal of their current appeal in the Colorado Court of Appeals as it relates to the Technical Review Committee lawsuit. The Town filed a motion to dismiss the case in February 2009 and the court found the matter moot and granted the Town’s motion and dismissed the Plaintiff’s claims with prejudice. On June 5, 2009, the Plaintiff filed its notice to appeal to the Colorado Court of Appeals. The stipulation would confirm that the development plan for Lot 4, Stanley Historic District submitted by Lot4ED, LLC approved by the Technical Review Committee would be null and void as the Town has noted in past notices to the Courts. The execution of the agreement would remove the Town from any further costs associated with the lawsuit through the appeal process. The Plaintiff would reimburse the Town for the costs incurred in the case prior to the execution of the stipulation. After further discussion, **it was moved and seconded** (Blackhurst/Miller), **to approve the stipulation agreement for the dismissal of the Technical Review Committee lawsuit with New Stanley Associates, LLLP**, and it passed unanimously.

Whereupon Mayor Pinkham adjourned the meeting at 8:07 p.m.

William Pinkham, Mayor

Jackie Williamson, Town Clerk