

PITKIN TOWN MEETING  
At the Newcomb Community Center

August 6th, 2018 at 7:00PM

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MINUTES

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Full and timely notice of this meeting was provided pursuant to C.R.S. 24-6-402(2)(c).

1. **CALL TO ORDER**/Roll Call and Pledge of Allegiance – **Mayor Rachel New called the meeting to order at 7:00pm. Trustees Angela Huckaby, John Rowan, Suzy Metzler, Brad Wick, Cory Nasso and Steve Pinkston were present. Attorney Jim McDonald was present. Minutes taken by Clerk Sara Gibb.**

Present/Approve minutes of the July 2<sup>nd</sup> work session, July 9<sup>th</sup> regular meeting, July 17<sup>th</sup> special meeting, July 17<sup>th</sup> Board of Health meeting, July 23<sup>rd</sup> SWOT meeting, July 24<sup>th</sup> special meeting - Clerk/Board

**Motion to approve the above-listed minutes made by Trustee Angela Huckaby. Seconded by Trustee John Rowan. Motion carried 6-0.**

2. **TOWN REPORTS:**

**Clerk's Report** – Sara Gibb – no report

**Treasurer's Report**/Approve Disbursements – Sara Gibb/Board – New bookkeeping/accounting system is almost completed. Would the board be opposed to a form invoice that the Building inspector/sanitarian would complete and submit for payment. The Board is in favor of this option. Clerk Sara Gibb will prepare an invoice form.

Trustee Brad Wick does not think Town should use Capital Funds to pay for Town Hall. Clerk Sara Gibb reported that she researched this option and verified with one of the senior auditors for local government at the Office of the State Auditor that this is an appropriate use of capital funds.

**Mayor's Report** – Rachel New – Moving toward getting Alpine tunnel listed on CO most endangered places. Would like a letter of support from the Town. Trustee Cory Nasso is in favor of writing a letter of support. Trustee Suzy Metzler suggested having someone from the PHCA write the letter.

SWOT (Strengths, Weaknesses, Opportunities, Threats) meeting was a success. Almost 30 people attended. The report was received from DOLA and will be disbursed online, bulletin boards, post office.

Meeting with county commissioners at the courthouse at 10am on September 11<sup>th</sup>. This will be posted as an open meeting.

Mayor/manager meeting last Thursday was put on by the Library District – working on a project to put together input from the community on needs/wants of the library. Link to survey on the library website.

**Attorney's Report** – Jim McDonald – Issues regarding setting the agenda. Ms. Witt from the Colorado Municipal League agreed that agenda items should not be changed or added within the 24 hours prior to a meeting. She also suggested putting a statement at the bottom of each agenda reading “the above items may be subject to an executive session” so there is no issue going forward. Trustee Suzy Metzler would like to have the Board vote to approve the agenda at the beginning of each meeting and add items for discussion only – no votes. If she has something she feels the Board should be discussing, it could be added at that time. Mayor Rachel New pointed out that the agenda is sent out early and there is an opportunity to add items. She also pointed out that if a discussion item is brought up, it doesn't allow the other trustees the opportunity to prepare and discuss the item meaningfully. It also may take away from the constituents' ability to meaningfully contribute to the discussion. Trustee Cory Nasso agrees that last-minute additions do not allow for preparation. The Board would like more time to review the draft agenda prior to the meeting. Trustee Angela Huckaby would like more input on the order of agenda items. Going forward, the draft agenda will be provided to the Board on the Wednesday prior to the meeting.

Public comments: Lois Sharpton, Eddy Balch, Patrice Boyd

3. **COMMISSIONER AND COMMUNITY REPORTS:**

Town Hall – Juliet Serrato – Town Hall Fundraiser in July, a half page ad was donated, several donations were made.

The Town of Pitkin is under the requirements of the State Historical Fund until 2029 because of grants received. There are several more projects that need to be completed to remain in compliance with the stipulations of the grants. Juliet would like to contact a company called "Historicore," which works with the state historical fund and uses volunteer labor to complete repairs. Juliet would like to apply to have some work completed by this company. Juliet would like to start charging for use of Town Hall, perhaps starting January 1, 2019. The Board is in favor of contacting "Historicore." Trustee Brad Wick suggests preparing a resolution to adopt a Town H Hall use form at the next meeting.

Building Inspector – Rand Makowski – Historical Society wants to move an old building. In the past the permit fee has been waived. The other buildings are 3 feet from the property line and the PHCA wants to locate this building 3 feet from the property line as well. The setback variance and wavier of permit feel will need to be addressed by the Zoning Board.

Regarding septic systems, Rand does not want to do a final inspection for systems that don't have an as-built.

Fire Department – Rand Makowski – two medical calls, Quartz Creek Lodge is selling t-shirts for the fire department and donating coffee money

Zoning Board – Brian Holt – no report, per Rachel New.

Cemetery – James Sharpton – Clean-up day took place August 2<sup>nd</sup>. Fencing material needed and will be purchased prior to the end of the year.

Environmental Health – 5 or 6 inspection forms turned in this summer, per Clerk Sara Gibb

PHCA – Garry Winget – Pitkin Day was successful - the talent show was sold out both nights and some had to be turned away. This event will be added to Pitkin Day next year. Calls for melodrama participants will take place earlier in the year. The PHCA donated \$50 to Town Hall from garage sale profits.

Ditches – Cory Nasso – Research is ongoing for adding a diversion point for a River Street Ditch. Hoping for a report Next month.

Streets – Steve Pinkston – no report

Parks & Rec. – Sara Lamar – no report, per Rachel New.

#### **4. PUBLIC COMMENTS TO THE TOWN COUNCIL:**

Anne Possien, Mike Rupp

#### **5. FOR POSSIBLE ACTION:**

- **7-4** Discuss and vote on Ordinance 2018-6 (Sales Tax Increase)

Per Clerk Sara Gibb, Department of Revenue representative Lu Ann Pyatt suggested that the language in Ordinance 1974-?, section 10 is not legal language.

Trustee Suzy Metzler would like to earmark the tax increase for Roads and Streets, not specifically for plowing. Trustee Steve Pinkston would like the funds to go to the general fund instead of being earmarked for a specific purpose. Trustee Brad Wick would like the funds earmarked. Trustee John Rowan agrees with an earmark. Trustee Cory Nasso believes the fund should be earmarked.

Trustee Suzy Metzler would like the previous earmark (1982) to be repealed. Trustee Suzy Metzler is concerned that putting language for repeal and replace would be confusing to voters.

The Board is in favor of repeal/replace of the 1982 Sales Tax Ordinance and earmarking 2.5% for Streets and 2.0% for the general fund.

Attorney Jim McDonald believes repeal/replace is the cleanest way to move forward.

Public comments: Chris Nasso, Tom Gibb

- **8-1** Discuss conflict of interest with Executive Session pursuant to: 1) C.R.S. §24-6-402(4)(b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions

**Motion to adjourn to executive session pursuant to C.R.S. §24-6-402(4)(b) for 5 minutes made by Trustee Brad Wick. Seconded by Trustee John Rowan. Motion carried 6-0.**

Board adjourned to executive session at 8:17 p.m.

Board resumed regular meeting at 8:26. The Board was polled as to the content of the discussion. Were items discussed outside of the motion? – Trustee Angela Huckaby – nay, Trustee Cory Nasso – nay, Trustee John Rowan – nay, Trustee Brad Wick – nay, Trustee Suzy Metzler – nay, Trustee Steve Pinkston - nay

- **8-2** Discuss and vote on action plan to address complaint RE: 704 State Street

**Motion to declare that Ramon Reed is in compliance with the current OWTS laws made by Trustee Suzy Metzler. Seconded by Trustee Angela Huckaby. Motion carried 4-0. Trustees John Rowan and Cory Nasso abstained.**

Response from Chuck Cousino at the State was made available to the Trustees today.

Trustee Brad Wick believes that if the Town wants interim inspections, the Town needs to provide the criteria. If this system was designed by the County, it should meet the guidelines of the ISDS ordinance of 1979.

Trustee Steve Pinkston wonders if there is a problem with the system, is it polluting? He would need to know that there is a problem, not that it doesn't meet current standards.

Trustee Suzy Metzler feels that this item should be tabled until the Local Public Health Agency can come up with criteria to inspect the system. She doesn't believe there is anything that can be done about this until someone can figure out a way to come up with criteria. Trustee Angela Huckaby feels the system should be approved because there's nothing saying it's failing. It's been inspected.

Trustee Cory Nasso would like to be definitively told whether the system is working or not. The purpose of inspections is to determine if systems are functioning. Trustee Suzy Metzler wants the item tabled until there are criteria because otherwise it's wasting time. She stated there doesn't seem to be a problem because no one has said there is anything coming out of the ground or that the creek is polluted.

Mayor Rachel New pointed out that the Town's ordinance requires an inspection every three years or for cause. The ordinance also requires NAWT inspections.

Trustees Brad Wick and Cory Nasso would like the criteria for alternative systems to be defined. Trustee Brad Wick states that NAWT training did not include how to inspect alternative systems. He also suggested that the Board of Health start issuing operating permits for systems every three years.

Mayor Rachel New wondered if there was a reason the current Board is not interested in knowing what a NAWT inspection would produce. She suggested some knowledge about function may be gained from a NAWT inspection. As the Local Public Health Board, what is the most diligent course of action?

Trustee Steve Pinkston stated that in order to follow up on the complaint, an NAWT inspector should look at the system. Trustee Brad Wick doesn't believe there's anything to say whether the system is functioning or not other than what the Sanitarian viewed

Trustee Brad Wick suggested tasking the Sanitarian with putting together a list of the types of systems that are in Town.

Trustee John Rowan wondered why the Town hasn't adopted Reg 86. Trustee Cory Nasso pointed out that the State doesn't recognize "graywater", but instead "wastewater."

Trustee Cory Nasso pointed out that by Town's ordinance, every system needs to be inspected. He would also like to define when the three-year interval begins for systems that have not previously been inspected.

One of the owners of the property in question, Ramon Reed, stated he is willing to meet whatever criteria the Board

comes up with, but there currently is none. He stated that under Regulation 43, his system would not be a graywater system. He asked that the Board pass a motion stating that his system is not out of compliance with the Town ordinances.

Mayor Rachel New pointed out that discussions about alternative systems have occurred several times over the last couple of years and the Board has determined that alternative systems are considered an OWTS. If this motion passes, this Board will be doubling back on that decision. Trustee Suzy Metzler feels that the Town's ordinance that adopted regulation 43 needs to be redone. She is in favor of looking for criteria if there is such a thing and an expert can state what needs to be looked at. She feels this complaint is out of hand and the Board has spent enough time on it. Mayor Rachel New wondered, if this motion passes, is it not in conflict with Regulation 86, which disallows graywater systems unless local regulations are adopted? Trustee Brad Wick believes Regulation 86 applies to graywater reuse, which would be misapplied in this situation.

Public comments: Chris Nasso, James Sharpton, Jerra Garetson, Eddy Balch, Ramon Reed

- **8-3** Discuss and vote on IGA with Gunnison County for November election

**Motion to accept the IGA with Gunnison County pending the correction of the dollar amount for the November election made by Trustee Suzy Metzler. Seconded by Trustee Steve Pinkston. Motion carried 6-0.**

Mayor Rachel New pointed out a discrepancy in the fee structure.

Attorney Jim McDonald pointed out that within the initial paragraph the Town is referred to as "jurisdiction" and definition H defines "jurisdiction." Those two definitions are inherently conflicting. He would prefer to the Town of Pitkin to be referred to as "Town of Pitkin," however, he believes the document can be adopted subject to the fee structure being fixed.

- **8-4** Discuss and vote on possible short-term rental ballot language and alternative options for STR regulation

Trustee Suzy Metzler would like the Board to vote on whether or not to allow STRs in the residential district. Then she would like to see a committee formed that would work on Ordinance 2018-1. Depending on the vote of the people, the committee would work on the ordinance.

Trustee Brad Wick clarified that if a complete ordinance is put to a vote, it could not be under referendum. He then brought up the compromise that allowed STRs in both districts, but with different restrictions. Trustee Cory Nasso would like to see an ordinance that shows compromise. Trustee Angela Huckaby wonders who is going to enforce an ordinance. Who is going to oversee what's happening at a short-term rental if it gets out of hand? Trustee Cory Nasso pointed out that there's no enforcement either way. The Town should stop using the excuse of "no enforcement" and set up something to enforce ordinances.

Trustee Suzy Metzler pointed out that Towns have been closed in the past for environmental reasons. She reported that Chuck Cousino stated that 14 days of overuse doesn't have a danger of ruining the water quality. She believes a compromise would be to allow everyone in the whole town to have a short-term rental for 14 days. She suggested Trustees being responsible for certain areas of Town, checking guests and reporting to the Town Clerk.

Mayor Rachel New requested the Board's thoughts on having both an ordinance allowing existing rentals but no future rentals and one with a compromise being placed on the ballot.

Trustee Suzy Metzler wondered why the Board would allow STRs in residential when they are already illegal. Why should the Board reward that?

Attorney Jim McDonald pointed out that case law since 2015 that brings into question the language of the 2012 Zoning Code. He also stated that he is providing an interpretation based on the facts, not making the law. His current position is that there are enough issues with the zoning code as it was in existence in 2015 that he doesn't know that the Town would win a lawsuit based on whether people can be grandfathered in. He later recommended that the zoning code be modified to specifically address the question of STRs, because the language was not definitive within the 2012 Zoning Code. The 2012 Zoning Code needs fixing.

Trustee Brad Wick suggested two full ordinances – one with STRs restricted to commercial, one with a compromise. Trustee Suzy Metzler feels it will be too much reading for voters if there are two ordinances on the ballot. She would

like a yes/no question on the ballot.

The Board was polled and would like to pursue the option of placing two ordinances on the ballot.

Following public comments and further discussion, the Board was polled a second time and would like to pursue the option of a yes/no question. Attorney Jim McDonald suggested a work session prior to the next regular meeting. Attorney Jim McDonald will provide this language to the Board. A work session will take place Monday August 13<sup>th</sup> at 7:00pm to discuss ballot language.

Attorney Jim McDonald suggested the option of an if/then ballot question.

Trustee John Rowan recused himself from the conversation at 10:07p.m.

Public comment: Bob Nuttleman (2 comments), Mike Rupp (2 comments), Robbin King (2 comments), Rand Makowski, Kandy Nasso, Ramon Reed, Eddy Balch, Jerra Garetson

- **8-5** Discuss and vote on supplemental appropriation for Town Hall painting

There was discussion regarding Town Hall expenses and the use of Capital Funds for Town Hall maintenance.

**Motion to approve August disbursements made by Trustee Steve Pinkston, seconded by Trustee Cory Nasso. Motion carried 6-0.**

- **8-6** Discuss and vote on Environmental Health Agent-interim

**Sara Gibb will serve as Environmental Health Agent – interim. 6 yea votes.**

Trustee Suzy Metzler withdrew her interest.

## 6. FOR DISCUSSION/UPDATE:

- **3-5** Discuss Ordinance 2018-3 (commissioners)
- **4-3** Discuss Ordinance 2018-4 (employees/contract workers)
- **5-6** Determine classifications for the following Town of Pitkin offices: Building Inspector, Town Sanitarian, Environmental Health Agent
- **7-3** Discuss snow plowing in the Town of Pitkin
- **7-5** Discuss potentially adding a ditch to River Street

## 7. ADJOURN MEETING:

The next regularly scheduled meeting will be held **Monday, September 3<sup>rd</sup>** at 7:00PM at the Newcomb Community Center. Council meetings are scheduled to adjourn at 9:00PM. At the council's discretion agenda item(s) not addressed by this time will be tabled until the next regular meeting. Approved minutes, ordinances, resolutions, agendas, and other Town of Pitkin public notices can be found at <https://www.colorado.gov/pitkin>.

To add an item to the agenda, please submit it in writing to the Town Clerk at [thetownofpitkin@gmail.com](mailto:thetownofpitkin@gmail.com) no less than **48 hours** before the next regularly scheduled meeting. If the requested agenda item has supporting documentation it must be submitted no less than five (5) days before the next scheduled meeting.

*\*Public comment to the Board of Trustees is encouraged. Public comments on agenda items will be taken by the Mayor before final action on the item is taken. Comments may be limited at the mayor's discretion*

If special accommodation or handicapped access is required, please contact the Town Clerk at [thetownofpitkin@gmail.com](mailto:thetownofpitkin@gmail.com) or (970)787-0968 at least 48 hours prior to the scheduled meeting