

PITKIN TOWN MEETING

Newcomb Community Center

February 14th 2022 at 7pm

To participate remotely, please call **(720)386-9023** and use access code **257210**

MINUTES

- 1. Call to Order and Pledge of Allegiance:** Mayor Eddy Balch called the meeting to order at 7:10pm. Trustees Ramon Reed, Jerra Garetson, and Tom Gibb were present. Trustee Lucinda Lull attended via telephone/text. Attorney Chris Mochulsky was present. Minutes taken by Clerk Sara Gibb.
- 2. Public comments*:** No comments
- 3. Town Attorney Report**:** No report
- 4. Special Additions to the Agenda**:**

- Board of Health meeting to discuss and vote on an OWTS variance request for 719/801 Main Street.

Board of Health Meeting

Due to a lack of notice for the public hearing, this variance request will be postponed
Mayor Balch agreed that all additional questions from the Board will be presented

- Public Hearing – Liquor License Request from the Stumbling Moose Lodge

The Public hearing opened at 7:18

Clerk Sara Gibb confirmed that the application complete with fees paid and provide an update on the status of the background report.

Per Attorney Mochulsky, the results of the background check are required by the Town, so the approval should be conditional upon receipt of background check. The Public hearing can be reopened so the results of the background check can be reviewed by the Board.

Jake Schellenberg, applicant and owner of Stumbling Moose Lodge stated that his family has moved to Pitkin from Tulsa over the past couple of years. The family would like it to be viable for them to live in Pitkin. That's how they ended up with the Lodge, and now they need to pay for the Lodge. Locals say there used to be a bar at the Lodge. He would like to have alcohol available. He has seen that people come to Town and bring alcohol from Gunnison or Salida and the Town receives no tax benefit from that. It is an opportunity for the Town to increase tax revenue. He would like to hear any concerns or questions that people might have and he can try to answer those. The town is quiet and he does not

envision a crazy or rambunctious situation. The Town has a history of having bars, but just hasn't during the last couple of years.

Additional questions that were sent to Mr. Schellenberg's attorney:

Planned seating capacity for restaurant? A: 12-16 plus the patio which can accommodate some tables for an additional 16 outside

Lodging capacity? A: Applicant stated that this has nothing to do with the liquor license

Access and parking? A: A map was sent in and reviewed by the Board. Approximately 20 cars can be parked off of Main Street

Mayor Eddy Balch asked if he had any additional information to present. He asked if Mr. Schellenberg has polled any residents of Town.

Mr. Schellenberg stated that he spoke to several people in Town and no one was opposed.

Public comments: Renee Balch is opposed to a bar/alcohol in Pitkin. Jesse James Garetson has no problem with a bar. The Town has had bars and packaged liquor for sale in the past. Chris Nasso would like business owners to be able to run and manager their businesses without the assumption that something new is going to be detrimental to the Town. Jesse James Garetson also stated that the occupancy of the apartments is quite a bit less than the previous owners. Patrice Boyd asked about drinking and driving and kids. She wants to know if someone will be keeping an eye on someone who is helping themselves to drinks.

Mayor Eddy Balch asked if Mr. Schellenberg could address on-site management - A manager is not required to be on-site. Someone over 21 years old must be on-site to manage if alcohol is being served at the table by someone under 21 years old. Mr. Schellenberg stated that he is trying to cover all his bases so that everything is legal. He believes the word "bar" is used loosely.

Mayor Eddy Balch asked what Mr. Schellenberg plans to sell – he has applied for all the license so that he is covered to sell anything. It would be a slow transition into selling spirits. At this time the plan is to sell beer and wine.

Mayor Eddy Balch asked about a statement made by Mr. Schellenberg's attorney regarding the type of license that was applied for. How many rooms will be rented? A: There are 4 rooms with kitchen/bathroom for lodging.

Trustee Ramon Reed asked if Mr. Schellenberg received a copy of the correspondence between the Town's attorney and his attorney. Mr. Schellenberg stated that he did. Trustee Reed would like the email correspondence to be made part of the record for this hearing.

Trustee Ramon Reed asked for clarification on the takeout and delivery – Attorney Mochulsky responded that someone can walk into the store and order food to go and can take an amount of alcohol by volume as part of their take-out order. This is a new rule that has come about with COVID. Mr. Schellenberg is not expecting to make deliveries.

OWTS

In evaluating the liquor license application, the licensing authority must determine the reasonable requirements of the neighborhood.

OWTS is not a part of this hearing. It's not being brushed aside, but this hearing is for the liquor license.

Attorney Mochulsky stated that the Board has to consider the desires of the inhabitants of Pitkin, not the people who visit Pitkin. The desires of the people who live here. He suggested that Jake make a statement regarding the desires of the inhabitants of Pitkin.

Mr. Schellenberg stated that the nearest place to get a drink is a minimum of 35 minutes away. He restated that he has talked to “quite a few people” in town about whether they thought it was a good idea and everyone thought it was a good idea.

Attorney Mochulsky reviewed takeout and delivery rules for liquor. Delivery means delivery to a non-public place (a private home). If someone orders takeout food, that person can also order a drink to take out.

Trustee Lucinda Lull (via phone) said she is good with the information as presented.

The Public hearing was closed at 7:57pm

5. For Council Action**:

2-4 (reordered with Board approval) Discuss and vote on a liquor license application for the Stumbling Moose Lodge.

Motion to approve the Liquor License Application for the Stumbling Moose Lodge with the contingencies that the Board receive the background report and deem it satisfactory, and that the Board of Health approve the change of use as proposed made by Trustee Ramon Reed. Seconded by Trustee Jerra Garetson. Motion carried 5-0.

Trustee Ramon Reed thinks the OWTS needs to be looked at and approved [for the proposed use]. He would like the condition of approval of the Board of Health before issuing the license.

Mayor Eddy Balch read the reply from Mr. Schellenberg's attorney regarding the OWTS question. Mr. Runco (attorney) stated that the total capacity will not exceed 24. Mayor Eddy Balch wanted clarification if this number includes lodging and people in the restaurant. Mr. Schellenberg stated that he believes that number refers to the restaurant only. In the application, seating inside and outside was discussed.

The Board would like to know if the OWTS meets the state requirements for the total capacity of the lodge and restaurant. Mr. Schellenberg stated that he thinks that is a completely different subject.

Mayor Eddy Balch clarified that the Board would like some information on the business plan. Mr. Schellenberg stated that he can't know how many people will be at the lodge on any given day in order to determine how many people can be at the restaurant. Mayor Balch stated that Regulation 43 has calculations regarding capacity. Mr. Schellenberg stated that the county health department has the same floor plan that shows 24 people inside/outside and they have not said this does not work. Mayor Balch clarified that the county health department is not responsible for OWTS within the Town of Pitkin. Wastewater falls under the jurisdiction of the Town of Pitkin Board of Health. There are calculations in Regulation 43 showing what is proposed regarding capacity and the size of the OWTS.

Mr. Schellenberg stated that he thinks the Lodge has an occupancy permit. For him to buy an operating business and then have the Town tell him to "jump through hoops" to operate is awkward. Mayor Balch stated that there is a proposal to add a restaurant as part of his application. According to regulation 43, there are different ways to calculate capacity based on what kind of restaurant is proposed. He would like Mr. Schellenberg's calculations for how he proposes to operate his restaurant. He would like to know what the OWTS capacity is currently. Do the combined capacities of the restaurant and the lodging work with the OWTS. The business has changed from what it was previously.

Trustee Jerra Garetson stated that the Environmental Health Agent can work with Mr. Schellenberg on the OWTS capacity and answering any questions regarding the OWTS. She feels comfortable with the liquor license and would like to vote on it tonight.

Trustee Ramon Reed disagrees. The Town does not have all the information, including the background report, which is a requirement of the application. Trustee Reed stated that within the application, the Board has the right to ensure that the business is meeting all local requirements. The Board needs to know that the operation that is planned is legal. There has been a business for many years at this location, but what is proposed is a change of use. This has not been a restaurant for many, many years.

There have been new systems put in at this property. Trustee Reed wants to ensure that the OWTS is adequate for the business that is being proposed. Under the Town's own regulations, it is a change of use and needs to meet Regulation 43.

Attorney Mochulsky stated that the Board has to vote within 30 days of this meeting. It can vote with contingencies of a clear background check and OWTS capacity. Mayor Balch asked that if the proof is provided from the applicant could the application be approved via an email poll of the Board?

Receive background check to satisfaction of the Board

Review of current OWTS and approval by the Board of Health

License would take effect once the Board reviews the background report and the Board of Health approves the OWTS.

Trustee Tom Gibb stated that regardless of knowing a daily capacity, the OWTS has a maximum daily capacity that it can handle. He suggested that if water use is a question, put a meter on the well. Taking care of your OWTS is a self-serving item. One would want to take care of it. The question is, how to back up if the water use exceeds the capacity of the OWTS? He is unsure the best way to address this. Trustee Lucinda Lull agrees with Trustee Tom Gibb.

Mayor Eddy Balch believes approval should be contingent on the background check not having any red flags. He would also like to see the OWTS calculations based on Regulation 43. He further agrees that a water meter should be installed.

Trustee Ramon Reed does not agree. He stated that neither lodging nor restaurants are unusual. Regulation 43 deals with it. He does not understand the science in Regulation 43. Because the Town does not have a sanitarian, the Board of Health is the sanitarian for the Town. He thinks the Board needs something from an engineer stating that the system is adequate for what is planned. Mayor Eddy Balch stated that there calculations based on gallons within Regulation 43 for commercial businesses. He wants Mr. Schellenberg to do the calculations and provide them to the Town. Trustee Jerra Garetson agrees with Mayor Eddy Balch. She has some experience with the use of water meters and says this is a simple solution. She would like the Board to be encouraging to businesses in Town. Businesses should be fully legal, but the Board should be helpful to businesses rather than putting up roadblocks. Trustee Lucinda Lull would like to see an engineer's report. Mayor Eddy Balch stated that if this is to be done legally, what does Regulation 43 allow?

Attorney Mochulsky asked if the contingencies could be clarified. Mayor Balch stated

that the application could be put up for approval with two contingencies – background check with no “red flags” and calculations on proposed daily flows compared to what the OWTS is designed to handle based on Regulation 43. A water meter would be recommended. Trustee Jerra Garetson does not think a water meter should be required but it is a good thing idea and would give the Board of Health some good information. Trustee Ramon Reed cares about the system meeting the requirements of Regulation 43. He thinks that’s up to the Board of Health. If the Board wants to take a hand calculation, that’s up to them. Clerk Sara Gibb read aloud a portion of the Town’s OWTS ordinance regarding the requirements of a contemplated change of use. The ordinance states: “Any OWTS for which a change of use is contemplated within the Town of Pitkin, Colorado shall be supported by certification by a licensed Colorado engineer that such change of use can be supported by the existing OWTS.”

Public comments: Jesse James Garetson

2-1 Approve meeting minutes: January 10th regular meeting

Motion to approve the minutes from the January 10th regular meeting as corrected made by Trustee Jerra Garetson. Seconded by Trustee Ramon Reed. Motion carried 5-0.

2-2 Discuss and vote on Resolution 2022-3 Canceling the 2022 Election and Declaring Candidates Elected

Motion to approve Resolution 2022-3 made by Trustee Tom Gibb. Seconded by Trustee Jerra Garetson. Motion carried 5-0.

2-3 Discuss and vote on Resolution 2022-4 Zoning Map Change

Motion to approve Resolution 2022-4 made by Trustee Jerra Garetson. Seconded by Trustee Tom Gibb. Motion carried 4-1. Trustee Ramon Reed cast a “nay” vote.

2-5

Review treasurer’s report; Vote to approve February 2022 disbursements

Mayor Balch had a question about negative sales tax in the budget vs. actual for January 2022. Clerk Sara Gibb explained some of the items were expensed in 2021.

Motion to approve the February 2022 disbursements made by Trustee Ramon

Reed. Seconded by Trustee Jerra Garetson. Motion carried 5-0.

Updates/Planning/Discussion:**

- Set work sessions and discuss future agenda items

6. Reports:** Please see attached for Commissioner/community reports

- Town Mayor – Eddy Balch reported that a request has been received from Town Hall Commissioner Garry Winget. He asked that the Board to write letters of support for the Town Hall Repairs.
- Town Clerk – Sara Gibb – no report
- Building Inspector – Tom Gibb (interim)
- Sanitarian – vacant
- Fire Department – Rand Makowski
- Zoning Board – Jesse James Garetson
- Cemetery – Mark Rossmiller
- Environmental Health – Cyndi Wick
- Streets – Jesse James Garetson
- Ditches – Vacant
- Town Hall – Garry Winget
- Parks and Rec – Sara Lamar

9. Adjourn: Motion to adjourn made by Tom Gibb. Seconded by Trustee Jerra Garetson. Seconded Motino carried 4-0. Meeting adjourned at 9:09pm.

The next regularly scheduled meeting will be held **Monday, March 14th** at 7:00PM. 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://townofpitkin.colorado.gov>

Town of Pitkin
February 2022 Regular Meeting

Reports

Commissioner and Community

- Building Inspector –Tom Gibb (Interim) – No report
- Fire Department – Rand Makowski – No report
- Zoning Board – Jesse James Garetson – No report
- Environmental Health – Cyndi Wick – No report
- Streets – Jesse James Garetson – No report. Waiting for more snow. GVE is on standby for plowing.
- Ditches – Vacant – No report
- Cemetery – No report until spring 2022
- Town Hall – Garry Winget - We have received our grant funding from the State Historical Fund in the amount of \$2,173 which is the total grant amount. The next step in the repair of the Town Hall crack is the main grant. We are close to the next grant cycle with a limit of \$50,000, and I am seeking bids for the work. Please help by submitting a letter of support for the work that would go something like:

The Honorable Mr. Eddy Balch
Mayor of Pitkin Colorado
Post Office Box
Pitkin, CO 81241

Dear Mr. Mayor,

Many of us in the town of Pitkin are concerned with the damage that is evident in the stone wall of our historic Town Hall. We/I support the work that is called for after the planning grant was received. We appreciate the efforts of the Town of Pitkin to maintain this magnificent historical building in Pitkin.:

Sincerely,

- Parks and Rec – Sara Lamar – Bear proof trash cans have arrived. Will be meeting to discuss the new park in the near future.