

# PITKIN TOWN MEETING

## Newcomb Community Center

April 15<sup>th</sup> 2024 at 7:00pm

Remote participation via ZOOM: <https://us06web.zoom.us/j/4136159288> Meeting ID: 413 615 9288

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### Minutes

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1. **Call to Order and Pledge of Allegiance:** Mayor pro tem Tom Gibb called the meeting to order at 7:02 pm. Trustee Jerra Garetson was present. Trustee Lucinda Lull and Mayor Eddy Balch were present via Zoom. Trustee Chris Nasso was absent. Attorney Clayton Buchner was present via Zoom. Minutes taken by Clerk Sara Gibb.
2. **Public comments\*:** John Wise, Jesse Garetson, Gayla Gibb, Suzy Metzler
3. **Town Attorney Report\*\*:** No report
4. **For Council Action\*\*:**

4-1 Approve meeting minutes: March 18<sup>th</sup> regular meeting

**Motion to approve the minutes of the March 18<sup>th</sup> Regular Meeting made by Mayor Eddy Balch. Seconded by Trustee Lucinda Lull. Motion carried 4-0.**

**Outgoing Trustees were excused from the meeting.**

**Oaths of office were administered to: Ed Pianalto, Jerra Garetson, Tom Gibb, Ramon Reed**  
Trustee Ed Pianalto made a public comment.

4-2 Discuss and vote on appointing a Mayor pro tem

**Motion to appoint Tom Gibb as mayor pro tem made by Trustee Ramon Reed.  
Seconded by Trustee Jerra Garetson. Motion carried 5-0.**

4-3 Discuss and vote on the following appointments: Town Attorney, Town Clerk, Building Inspector

**Motion to appoint Clay Buchner as Town Attorney made by Mayor Eddy Balch.  
Seconded by Trustee Ed Pianalto. Motion carried 5-0.**

**Motion to retain Sara Gibb as Town Clerk made by Trustee Ed Pianalto. Seconded by Trustee Jerra Garetson. Motion carried 5-0.**

**Motion to appoint Tom Gibb as Building Inspector made by Trustee Jerra Garetson.  
Seconded by Trustee Ramon Reed. Motion carried 5-0.**

4-4 Discuss and vote on the following commissioner positions: Environmental Health Agent,

Ditch Commissioner, Parks and Rec Commissioner, Street Commissioner, Town Hall Commissioner

**Motion to appoint Gayla Gibb as Environmental Health Agent made by Trustee Ramon Reed. Seconded by Trustee Jerra Garetson. Motion carried 5-0.**

Public comments: Jesse Garetson

**Motion to appoint Jesse Garetson as Street Commissioner made by Trustee Ed Pianalto. Seconded by Trustee Ramon Reed. Motion carried 5-0.**

There was discussion about Mr. Garetson going over budget several times as Street Commissioner. Trustee Jerra Garetson took exception to the request for Mr. Garetson to remain within budget. Trustee Ed Pianalto stated that the streets haven't been maintained this well for many years. Mayor Eddy Balch stated that State Street and the side streets are in better shape than they probably ever have been. He asked that anyone who spends money for the Town, if it looks like they're going to be over budget, to run it by the Board prior. The Trustees are a governing board and have the responsibility for maintaining the budget. Going over budget needs to come through the Board. Trustee Jerra Garetson asked that anyone who is interested in volunteering for the Town to please not take offense at Mayor Balch's comments. Mayor Balch stated that he is only asking that people follow along with any other government entity and stay in budget.

Jesse Garetson stated that in order to achieve the Board's requests, he sometimes goes over budget.

Public comments: Jesse Garetson

**Motion to appoint Ramon Reed as Town Hall Commissioner made by Trustee Jerra Garetson. Seconded by Mayor Eddy Balch. Motion carried 4-0. Trustee Ramon Reed abstained.**

4-5 Discuss and vote on Zoning Board appointments (3-year terms)

Trustee Ramon Reed requested to table this item. He believes there are understandings that need to be worked out on both sides and he would like to hold off on the appointment until the discussion is held. He would like to hold a joint meeting with the Zoning Board of Adjustments and the Board of Trustees to get everyone moving in the same direction.

Trustee Jerra Garetson would prefer to make the appointments tonight. Mayor Eddy Balch agrees with Trustee Jerra Garetson. He also agrees that a joint meeting with the Trustees and the Zoning Board is a good idea. Trustee Ed Pianalto would like to make the appointments tonight.

**Motion to appoint Gayla Gibb and Rodger Lull to the Zoning Board of Adjustment for three-year terms until April 30, 2027 made by Trustee Jerra Garetson. Seconded by Mayor Eddy Balch. Motion carried 4-0. Trustee Ramon Reed abstained.**

A joint work session will be held on Friday, May 3<sup>rd</sup> at 5pm. Date and time were chosen by polling the Trustees and available Zoning Board members.

Public comments: Jesse Garetson

4-6 Discuss and vote on accepting the indemnification document from the Pitkin Hotel.

Mayor pro tem Tom Gibb reminded the Board of the Taylor's request to place a roof over the front porch on the hotel. The request was approved conditionally and requires an indemnification agreement. Attorney Buchner drafted the indemnification document presented this evening. Mayor pro tem Tom Gibb stated that he has seen the engineering for the porch. There was discussion about the process if Mr. Taylor does not approve of the document. Attorney Buchner stated that the document was written to be fair to all parties.

The Town must also be named "other insured" on the Hotel policy. Attorney Buchner does not like mixing indemnification and liability. He suggests having the Hotel show that the Town is named other insured. Trustee Jerra Garetson would like to approve this document tonight. Trustee Ramon Reed agrees.

Trustee Ed Pianalto wants to make sure the Taylors understand they have to add the Town as named insured on their policy. Clerk Sara Gibb reported that the Taylors are aware of the "other insured" requirement based on emails she has received.

**Motion to approve the document and authorize the Mayor to sign it made by Trustee Ramon Reed. Seconded by Trustee Jerra Garetson. Motion carried 5-0.**

3-1 Discuss and vote on adopting Ordinance 2024-3 Trustee Compensation

There was discussion about the information sheet provided by the Clerk with regard to Trustee and Mayor pay scale. Mayor pro tem Tom Gibb would like to work on this another time. There will be no raises until the next term. Trustee Ed Pianalto doesn't want to kick this down the road, nor does he want to give the impression that the Town doesn't want to address commissioners.

Trustee Ramon Reed stated that insurance might be an issue if volunteers become paid. He would like the jobs of commissioners to be more satisfactorily defined before moving forward with this discussion. He would like to go forward with the Board payment. The Town needs to try to attract younger people into working with the Town. Paying Board members more gives them more of a responsibility to earn that pay. He would like to discuss increasing the stipend, then it will take place when new members are on the Board.

Mayor Eddy Balch asked if anyone had expressed interest in being on the committee to discuss pay for the Street Commissioner. Clerk Sara Gibb stated that no one had

expressed interest. Mayor Eddy Balch also asked about insurance. Clerk Sara Gibb stated that there would be insurance and tax implications for the Town. There was discussion about budget for commissioners. Trustee Ed Pianalto suggested making progress toward paying commissioners in 2025, which would solve the budget issue.

**Motion to table Item 3-1 and item 3-2 and move them to the agenda for the next meeting made by Trustee Jerra Garetson. Seconded by Trustee Ed Pianalto. Motion carried 5-0. Item tabled.**

There was discussion about posting locations. There was additional discussion about the use of social media to disperse information.

Attorney Buchner stated that there is no statute that disallows the use of social media to share advertisements, such as when a meeting will take place or what is on the agenda. It's not good practice to have a personal social media presence that is affiliated with the role of trustee.

Mayor Balch has a concern about posting on other websites is that the Town only posts on the official website. He asked how someone would verify that information is from the Town of Pitkin if it's on social media.

Attorney Buchner stated that if the Town had a social media page, only those with access to that page would be able to use it. He repeated that he doesn't suggest using personal social media to advertise.

Mayor Balch suggesting sharing a link to the Town's website. He stated that if anyone wants information, it's not too difficult to find.

Public comments: Suzy Metzler, John Wise

3-2 Discuss and vote on adopting Ordinance 2024-4 Mayor Compensation

**Item tabled, see above.**

4-7 Discuss and vote on adopting an ordinance pertaining to camping within the Town of Pitkin

Clerk Sara Gibb stated that there is no draft ordinance to present this evening. Templates have been emailed to the Trustees. Mayor pro tem Tom Gibb asked that the Board look through the templates. Trustee Ramon Reed stated that this needs to be done before summer. The camping season is approaching and the Town already has a couple of situations that need to be dealt with.

Trustee Ed Pianalto asked if the Board was planning to repeal or update the previous camping ordinance. Mayor pro tem Tom Gibb stated that there were several possibilities.

Trustee Jerra Garetson asked which camping ordinance the Town was functioning under - the 2011 or 2013 Ordinance. Clerk Sara Gibb reported that both are currently active ordinances.

4-8 Review Treasurer's Report. Discuss and vote on April 2024 Disbursements

**Motion to approve the April 2024 disbursements made by Trustee Jerra Garetson. Seconded by Trustee Ramon Reed. Motion carried 5-0.**

Trustee Ed Pinalto asked for a record of Clerk Sara Gibb's hours worked and activities for March, per Ordinance 2, Series 2019. Clerk Sara Gibb confirmed that she maintained this record. Mayor pro tem Tom Gibb stated to make sure that gets completed as we move forward. Trustee Ed Pinalto stated that before the Trustees move to approve any disbursements, they should get what they are supposed to have. He is willing to accept a verbal report tonight. Clerk Sara Gibb read aloud her days and hours worked and activities for the month of March.

## 5. Updates/Planning/Discussion\*\*:

- Receive and discuss recommendation from the Zoning Board with regard to a fence permit application for 428 State Street.

Mayor Eddy Balch received the recommendation from Zoning Board member Ed Pinalto but the Town Clerk was not included on the email in order to disburse the recommendation to the Trustees. Zoning Board Chairperson Jesse Garetson stated that the motion with the recommendation to the Town Council was listed in the Zoning Board minutes, so he assumed it was ready for tonight.

Mayor pro tem Tom Gibb reported that he sat in the Zoning Board meeting and that he is aware that the recommendation was to either approve the land swap that was previously requested or to allow a fence 5 feet back from the pin. The Board of Trustees already denied the land swap request.

Mayor pro tem Tom Gibb stated that in regard to the fence on the line, it was his impression that no one went down to look. He read from C.R.S. 43-2-201 Public Highways, that the following are declared to be public highways: "All roads over private lands that have been used adversely without interruption or objection on the part of the owners of such lands for 20 consecutive years."

The issue is not "where is the pin" or "where is the property line." The issue is where is the traffic line. It doesn't mean the owner doesn't own the property, just that he has a highway through it. If he wishes to pursue this further it will be through some other channel than this Board.

Zoning Board Chairperson Jesse Garetson stated that his understanding was this was the appeal process – for the Zoning Board to make a recommendation. He asked if the Zoning Board should have acted on this when he [applicant] appealed to them as a board. Mayor pro tem Tom Gibb said that was in question.

Attorney Buchner stated that any process which ends with the Board of Trustees making a determination, which is typically anything involving Town property for example, they are the decision maker. If there's nothing in the code, insofar as there is a Board of Adjustments or a Planning Commission making a recommendation and then the Board of Trustees making a decision, any appeal of that decision would be done in district court. Trustee Ed Pianalto stated that at the Zoning Board meeting, the request was to look at the permit because it wasn't signed off by any Zoning Board members before it was denied. The decision was made by one person to deny the permit. Another piece of property was reviewed where a fence was allowed to be out on the town right of way to go around a septic system. People cannot be treated differently, so we [Zoning Board] sent it to the Trustees to allow the permit to go through or look at the land swap. Jesse Garetson stated that the fence on the other location was approved because the traffic pattern was not where the pins are located. Mayor pro tem Tom Gibb stated that the difference is that the fence did not impede the traffic. Her fence is not in the street right of way. The fence in question would impede traffic flow. If a traffic pattern has been established for many years, that traffic pattern has legal status. A fence 5 feet from the pin would still allow someone to get easily down Quartz Lane, according to Mr. Garetson.

Attorney Buchner stated that he looked at the application and the denial based on the fence being in the right of way. The way that the fence has been presented, it will end up in the right of way, which we cannot allow. The question is whether the Town wants to pursue anything else or just deny it and leave it at that.

Trustee Jerra Garetson asked if the fence with the 5-foot setback impedes the traffic way. Mayor pro tem Tom Gibb stated that it is in the traffic pattern. Trustee Jerra Garetson asked if this was adverse possession. Attorney Buchner stated that this is a type of adverse possession. The road has been there for many years. Use of the road for a long period of time creates an easement. People cannot be allowed to redraw and remove roads that are established and being used by the public. No one can build a fence or a private improvement on a piece of property that is a Town right of way. It's a clear town right of way. That's the end of the analysis legally. As a matter of policy, do you want to address the grievance for the homeowner? The Board is looking at whether they will override the denial of the fence or stand by the denial.

Trustee Jerra Garetson asked if the fence is on a 5-foot setback, does it totally impede the driving surface? Mayor pro tem Tom Gibb stated that there would still be 5-6 feet of driving surface on the other side of the fence.

Attorney Buchner stated that just the fact that it's in established Town right of way is enough, even if it doesn't impede traffic. You can't allow someone to build on Town right of way.

Trustee Jerra Garetson stated that she understands adverse possession but she doesn't fully agree with it. She stated that you have to go by the law. Trustee Ed Pianalto stated that he is disturbed that property owners have paid taxes on that lot, including where the road is. Trustee Ramon Reed stated that taxes come from the valuation of the property. He doesn't know that the valuation of the property is partly or entirely based on the square footage of that property. To say that the Town shouldn't go along with the legal history of adverse possession isn't right.

There was continued discussion about adverse possession against the town and easements.

Mayor pro tem Tom Gibb stated that the attorney's response should help the Board to understand the validity of his response. Trustee Ed Pianalto stated that he agrees to some degree. Going forward, he doesn't want to see anyone as a one-person enforcer. Trustee Jerra Garetson stated that it's unfortunate that this item cannot be voted on. Trustee Ramon Reed would like to see the paperwork before voting on anything. The letter that was sent to the Zoning Board was not made public and the information was not provided to the Trustees for tonight's meeting.

Trustee Ed Pianalto stated that there was a breakdown in communication. He drafted and sent the recommendation to Mayor Eddy Balch. Mayor Eddy Balch stated that his agenda states "receive," meaning that they were to receive the recommendation from the Zoning Board. Clerk Sara Gibb confirmed that it was worded this way because to her knowledge, the Town had not received anything from the Zoning Board. She anticipated discussion, but the Zoning Board did not send anything to her for disbursement.

Public comments: Jesse Garetson

## **6. Special Additions to the Agenda\*\***

### **7. Reports\*\*:**

- Town Mayor – Mayor Eddy Balch/Mayor pro tem Tom Gibb – No Report
- Town Clerk – Sara Gibb – No Report
- Please see written report for the following:
- Building Inspector – Tom Gibb
- Zoning Board – Jesse James Garetson - Read approved Zoning Board Minutes at: <https://townofpitkin.colorado.gov/documents/approved-meeting-minutes>
- Cemetery – Mark Rossmiller
- Environmental Health – Gayla Gibb
- Streets – Jesse James Garetson provided this report verbally
- Ditches – Vacant
- Town Hall – Ramon Reed
- Parks and Rec – Vacant

## **9. Adjourn: Motion to adjourn made by Trustee Ed Pianalto. Seconded by Trustee Jerra Garetson.**

### **Meeting adjourned at 9:56pm**

The next regularly scheduled meeting will be held **Monday, May 20<sup>th</sup>** 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>

# Reports

## Commissioner and Community

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- **Building Inspector** –Tom Gibb – Multiple permits pending. None issued this month. Ed Pianalto got a final and is completed on his portable building addition.
- **Zoning Board** – Jesse James Garetson – At our 4/8/2024 ZBA meeting 4 members were physically present and Rodger Lull was on Zoom.  
428 State Street fence permit appeal was discussed and a recommendation was sent to the Town Trustees. Zoning Revisions was tabled. A May workshop is planned to involve as many Trustees and ZBA members as possible. In old business, we reviewed our attorney’s report on our energy code house bill 22-1362. We were pleased that this report matched our previous attorney’s report. We can live with it and will go with it until April of 2026.
- **Environmental Health** – Gayla Gibb – There has been a flurry of activity. I have been in review of my files. Several OWTS owners are taking it upon themselves to have their systems inspected and pumped in a timely manner. Although they have not sent me the information on their own, Jack Barker has been sending me full reports of all he has done in Pitkin as per my request. About eleven letters were mailed towards the end of March to remind property owners of pending action that needs to be taken. The Hotel used me as a liaison between the Hotel engineering and the State to finalize their OWTS plans. That installation is now going forward.
- **Streets** – Jesse James Garetson – I’m pleased that the streets are in pretty good condition. I’ve been communicating with Sparky at Gunnison County for mag-chloride prior to July 4<sup>th</sup>. I’m a little disappointed about the signage that broke due to snow plowing despite having orange markers on them.
- **Ditches** – Vacant – Jesse James Garetson reported – A Ditch Commissioner is needed. There is a lot of work to be done before the water is turned on.
- **Cemetery** – Mark Rossmiller – No report until spring 2024
- **Town Hall** – Ramon Reed – I am waiting on some responses from the State Historical Fund to finalize the repair work on the stone wall near the upper western corner this spring. When that repair is done I will proceed with advertising for bids to install an OWTS for Public Restrooms next to the Town Hall. I have received information on two different ways to provide ADA access to the 2nd floor of the Town hall. As soon as I get more detailed specifications I will have proposals to present to the Board. Inquiries for private party uses are coming in. One wedding in August is planned, and possibly some music performances.
- **Parks and Rec** – Vacant – No report