

PITKIN TOWN MEETING at the Newcomb Community Center May 20th 2024 at 7:00pm **following an Executive Session at 6:30 pm**

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

EXECUTIVE SESSION, 6:30 PM

Mayor Eddy Balch called the meeting to order at 6:33pm.

- The Town Board of Trustees calls an executive session under C.R.S. § 24-6-402(4)(b) For the purposes of receiving legal advice from the Town attorney on specific legal questions related to a variance request within the Town of Pitkin

Motion made by Trustee Ramon Reed to enter into an executive session under C.R.S. § 24-6-402(4)(b) for the purposes of receiving legal advice from the Town attorney on specific legal questions pertaining to a variance request at 1016 State Street. Seconded by Trustee Tom Gibb. Motion carried 5-0.

The time is now 7:20 and the executive session has been concluded. The participants in the executive session were: Trustee Jerra Garetson, Trustee Tom Gibb, Trustee Ed Pianalto, Trustee Ramon Reed, Clerk Sara Gibb, Attorney Clay Buchner

Mayor Eddy Balch asked, "For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record."

All members responded that the discussion remained on topic.

REGULAR MEETING AGENDA, 7:00 PM

- 1. Call to Order and Pledge of Allegiance:** Mayor Eddy Balch
- 2. Public comments*:** Jesse Garetson (resigned as Street Commissioner)
- 3. Town Attorney Report**:** None
- 4. For Council Action**:**

5-1 Approve meeting minutes: April 15th regular meeting

Motion to approve the minutes of the April 15 Regular Meeting as corrected made by Trustee Ramon Reed. Seconded by Trustee Ed Pianalto. Motion carried 5-0.

5-2 Discuss with possible action: Appointing Josh Ackerman as Parks and Rec Commissioner

Josh Ackerman addressed the Board of Trustees. He is the new owner of 311 1st Street. He bought property in the Gunnison area approximately 8 years ago and owns property in both Crested Butte and Doyleville. He saw the opportunity to serve and that's why he put his name in for Parks and Rec Commissioner.

Motion to appoint Josh Ackerman as Parks and Rec Commissioner made by Trustee Ed Pinalto. Seconded by Trustee Jerra Garetson. Motion carried 5-0.

5-3 Discuss with possible action: Purchasing signage for River Street ("Street Narrows to 15 feet")

John Wise proposed that the Town identify that River Street beyond 8th Street reduces to 15 feet. Clerk Sara Gibb to obtain a price for 2 signs "Street Narrows to 15 feet" and "Private Property on either side"

Trustee Ramon Reed stated that the request is to prevent vehicles from going down that road that shouldn't. He would like the signage to include "no turn around" and "dead end"

Trustee Ed Pinalto stated that the sign price should include post and installation. Trustee Jerra Garetson is not in agreement with "dead end" because it's an access for 4-wheelers. Trustee Ed Pinalto agrees with Trustee Jerra Garetson. Mayor Eddy Balch suggested that the Board send out suggestions to the Clerk for verbiage with regard to trailers.

Trustee Ramon Reed would like to limit the cost to \$100.

Public comments: Suzy Metzler

5-4 Discuss with possible action: Awarding a bid for ditch work within the Town of Pitkin

Clerk Sara Gibb opened and read aloud 3 bids from: Gunnison Valley Excavation, Creekside Angling and Environmental, and Varnell LLC. Trustee Ed Pinalto verified that he completed a site review with all 3 bidders.

Trustee Tom Gibb asked Trustee Ed Pinalto for his impression of the individuals who completed the walk-through with him. Trustee Ed Pinalto stated that all 3 could get the job done in a timely fashion and all 3 were professional. He would hire all 3 of them. He confirmed that he discussed the time frame with each individual.

There was discussion about the scope of work and the orange markings along the ditches within Town. There was discussion about whether the bids were provided on a per foot basis. There was not an indication that they were specifically calculated this way in the bid language. There was discussion about the cost of cleaning the ditches in 2023.

Trustee Ramon Reed stated that it's not clear to him what work will be done. He stated that the whole thing is too vague. Trustee Ed Pinalto read an example of the scope of work that was provided to the bidders. Mayor Eddy Balch will verify that the work has been completed.

Clerk Sara Gibb will generate a contract to provide to the winning bidder and verify when work can begin. A 12" bucket is preferable.

There was discussion about how the work was to be performed (machine vs. hand dug) and possible additional work that may be necessary before the ditches can be turned on.

Trustee Tom Gibb asked about bucket size. Trustee Ed Pinalto stated that he told the bidders 12-18" would be acceptable.

Trustee Ed Pinalto stated that only one bidder has their equipment local in case there is a problem. Trustee Jerra Garetson stated that only one bidder pays taxes in the Town of Pitkin. Trustee Ramon Reed is leaning toward GVE based on their previous work in Town.

Motion to accept the bid from Gunnison Valley Excavation made by Trustee Ramon Reed. Seconded by Trustee Tom Gibb. Motion carried 3-2. Trustees Ed Pinalto and Jerra Garetson voted no.

Public comments: Jake Schellenberg, Bob Taylor, Jesse Garetson, Jody Morris

5-5 Discuss with possible action: Adopting Ordinance 2024-5 Temporary Occupancy of Recreational Vehicles on Private Property

Clerk Sara Gibb read the ordinance aloud.

Trustee Ed Pinalto asked, "What is the issue that has brought this up and is this ordinance going to resolve that issue?" Mayor Eddy Balch stated that there has been discussion in the past about camping within the Town.

Trustee Ed Pinalto stated that it's been discussed in the past that there is an issue with the camping ordinance. He asked if this ordinance is going to create more harm to the Town than what we currently have. Mayor Eddy Balch asked for clarification on Trustee Ed Pinalto's statement that this might bring harm to the Town. Trustee Ed Pinalto stated that one of the huge needs of Pitkin is sales tax revenue. The three main businesses in Town may require summer workers to stay in RVs in Town. He wants to know why the limit is 30 days. In his opinion, this will harm the Town.

Trustee Ed Pinalto does not understand the phrase "visitors to Pitkin residents." Mayor Eddy Balch stated that the OWTs must be designed to accommodate the additional load of the RV.

Trustee Ed Pinalto asked how the Town is going to keep track of the 30-day limit. There was discussion about enforcement. Trustee Ed Pinalto asked about "utilities and fees."

Attorney Buchner stated that if a fee isn't applicable then it won't be charged. This contemplates that in the future there may be utilities available. There are basic health, safety and welfare codes that just aren't contemplated by the current ordinances for camping. If the Town doesn't address the fact that certain people are going to live in RVs, very quickly there will be RVs sitting on properties without sewage and water and that don't have proper snow load capacity.

We want people to be able to safely live in the Town. This is an attempt to regulate for the welfare and safety of the entire Town. This has not been tailored or drafted for any particular individual or issue. This is as simple as it gets.

Mayor Eddy Balch stated that it has been noticed in town that there are RVs that are just discharging gray or black water. The primary issue is to address this.

Trustee Ed Pianalto stated that in Section B, it states, "authorized and approved park." He asked what that is in the Town of Pitkin. That needs to be refined to determine what that is and how someone would become an authorized and approved park. Mayor Eddy Balch stated that this is something that may occur in the future. Attorney Buchner stated that he understands the logic of not including something in an ordinance that isn't otherwise encapsulated in the code. As he is aware, there is no RV park or camping within the Town. Attorney Buchner's intent in building this ordinance was to limit the details. It's better to anticipate and reference the generalities of what the ordinance could entail. If those things don't exist, they have no teeth. This is in anticipation of an expanding idea that the Town may accommodate RVs and affordable housing in the future while still considering the greater ideals of this ordinance, which is that the Town doesn't want anyone camping without the proper sewer and water.

Trustee Tom Gibb reminded the Board of a statement made by a forest service director years ago that indicated that visitors are coming. The Town is seeing an influx of many people with their campers and RVs. The Town needs to have some control over the number that end up in Pitkin camping. He discussed dry camping and being self-contained. He also stated that the clutter of RVs looks like clutter. If the Town doesn't get ahead of the game, it becomes fair game for anyone that wants a spot. He sees the value in having a more defined ordinance. He would take some exceptions with this particular ordinance.

Trustee Jerra Garetson stated that all her notes concur with what has been said, including that some RVs are self-contained. She said the time limit is too restrictive. She isn't worried about clutter on private property. She wants to be as helpful as possible for housing for the workforce for the Town's businesses.

Attorney Buchner stated that this ordinance is specific to private property within Pitkin. He has seen towns that have not contemplated the idea of camping within town thoroughly enough and what happens is properties get inundated with movable, temporary housing that becomes non-temporary very quickly and there are no immediate repercussions. This leads to dealing with the State, statutes, dealing with evictions and dealing with long processes and health and safety violations.

State statute does require that if someone is living somewhere they have to have water and sewer. The best thing for the Town to have affordable housing would be to have affordable housing or camping.

What you don't want is a piece of property where people come, start parking RVs, and decide to live there. It will take years and an incredible amount of money to remove them if you don't have the ordinances. You can also create variances or camping areas within Town but over a certain amount of time you want to start considering water and sewer. The original ordinance does not protect Pitkin from worst case scenarios. He suggested that this might be better discussed in a work session. It deserves more attention than can be given to it at this particular meeting.

Trustee Ramon Reed discussed what he sees as two major problems with the current ordinance: the wording "improved property" and enforcement. He suggested changing the 30-day allowance to 14. He discussed OWTS regulations and design capacity. He stated that Chuck Cousino gave the number "14 days" of overuse that an OWTS system can handle. The Town needs some limit to address the fact that there is no sewer system. He suggests requiring a camping license and making it mandatory to get the license in advance. He suggests charging for the license. He asked if camping in Pitkin should be allowed at all or if Town should have campgrounds because there are several campgrounds within 5 miles of Town.

Motion to table item 5-5 until a work session can be held made by Trustee Ed Pianalto. Seconded by Trustee Jerra Garetson. Motion carried 5-0.

Work session scheduled for Monday, June 24th to follow public hearing for a liquor license.

5-6 Discuss with possible action: Variance Request 1016 State

Clerk Sara Gibb provided a site visit report.

Ed Pianalto took the lectern and stated that he is speaking as the property owner and not as a Trustee. He stated that the way the original cabin was located on the property is at an angle and not parallel to any of the property lines. He clarified that while the site plan includes both lots 8 and 12, those are not his property. He added that the space at the back of his lots is not deep enough for a garage. He stated that the Town has a history of allowing 0' variances in the past.

Trustee Tom Gibb stated that he understands that 9,000 square feet is difficult to get everything on it. He asked if the garage can be pulled forward to the State Street line. Mr. Pianalto stated that he could not because it would cause the building to be directly under the overhead power line. Trustee Tom Gibb stated that the Zoning Code states that "in no case shall the variance be more than a [minimal] easing of restrictions." This request is not an easing of restrictions, it's a nullification of restrictions.

Mr. Pianalto stated that he looked at other setbacks and there was a 0' setback approved for 815 State Street. A property at 8th Street has a leach field that required an easement. The property at 101 3rd Street has a 0' setback. Mayor Eddy Balch asked about the foundation.

Mr. Pianalto stated he has no problem signing a “hold harmless” agreement. Mayor Balch asked about snow shed. There was discussion about this becoming a potential issue in the future. Trustee Jerra Garetson asked how this would be the Town’s business. Trustee Ramon Reed stated that the ditch is the Town’s business. He asked how the ditch would be maintained if it is not accessible. Trustee Jerra Garetson stated that she does not think the Town is jeopardizing health and safety by granting this variance. Mayor Eddy Balch stated concerns about ditch access between buildings. Trustee Jerra Garetson stated that if the property owner [of the downstream property] later wanted to build that close to the ditch, they could be told no. Trustee Ramon Reed asked if the sloping roof would cause more cave-ins at the ditch. The Town is responsible for the ditch. The irrigation ditches that ranchers have are no different from our ditches. This means a 25’ easement on either side. The Town needs to consider if this is going to affect the operation, cost, and flow of the ditch. He isn’t concerned about the setback, he is concerned about the ditch.

Mr. Pianalto stated that the ditch in question is over 2 feet deep. It will be years before it needs to be cleaned out.

Mayor Eddy Balch stated that one of his biggest concerns is that the Zoning Board didn’t approve the request. He doesn’t understand why. Zoning Board member Jesse Garetson stated that the Zoning Board did approve it, with the recommendation for a liability clause.

Trustee Jerra Garetson stated that she would be more upset had the Zoning Board approved the request when they shouldn’t have. She appreciates the fact that it was sent to the Board. She doesn’t think the Zoning Board has the authority to enact an indemnification clause.

Attorney Buchner stated that the Town’s options are as follows: to adopt the contingency of a liability waiver, which he can draft. The Town can approve with contingency, approve without contingency, adopt, reject, or deny.

He says it is a good idea to have indemnification. He does not have an opinion on approval beyond that.

The motion could approve the request contingent on the applicant signing an indemnification document or liability waiver.

Motion to approve the variance request at 1016 State St. contingent on the application signing an indemnification agreement made by Trustee Jerra Garetson. Seconded by Trustee Ramon Reed. Trustee Jerra Garetson withdrew her motion. Trustee Ramon Reed withdrew his second.

Trustee Ramon Reed stated that he would consider seconding this if the application covers the cost of the attorney to draft the indemnification agreement. He offers this as an amendment to Trustee Jerra Garetson’s motion.

Motion to approve the variance request at 1016 State St. contingent on the application signing an indemnification agreement drawn up by the attorney and if the applicant will pay for the time the attorney takes to draw up the agreement made by Trustee

Jerra Garetson. Seconded by Trustee Ramon Reed. Motion carried 3-1. Trustee Tom Gibb voted no.

Public comments: Jesse Garetson, Chris Nasso, Cory Nasso, Jim Fisher

- 5-7 Discuss with possible action: Setting a date for a public hearing, Liquor License, Pitkin Hotel

The Board agreed to Monday, June 24th at 6pm

- 5-8 Discuss with possible action: Setting limits on discretionary spending for Clerk and commissioners

Motion to table made by Trustee Jerra Garetson. Seconded by Trustee Tom Gibb. Motion carried 5-0.

- 5-9 Discuss with possible action: Responding to Zoning Board recommendation on a fence permit appeal for 428 State Street

Zoning Board Chairperson Ed Pinalto addressed the Board with a review of the recommendation. The permit was denied by the Building Inspector Tom Gibb with the comment, "You cannot put a fence in town right of way." The Zoning Board made the recommendation to approve the fence with the setback to the property line or review and approve the previously submitted land swap request that was presented to the Town.

Mayor Eddy Balch asked Attorney Buchner about a fence being built in town right of way. Attorney Buchner stated that if the fence is located on or in an easement of Town right of way he advises against it. Towns have often developed what's called prescriptive easement. He would never suggest to any town to give up property or change ditches, easements, roads, or any established thoroughfare for the Town.

Trustee Ramon Reed would like the letter, the building permit, and the motion that was made to be provided to the Board of Trustees. He would like to see the details of what and where.

Motion to table this item until the next meeting made by Trustee Ramon Reed. Seconded by Trustee Tom Gibb. Motion carried 3-2. Trustees Ed Pinalto and Jerra Garetson voted no.

- 5-10 Review Treasurer's Report. Discuss and vote on May 2024 Disbursements

Motion to approve the May disbursements made by Trustee Ed Pinalto. Seconded by Trustee Jerra Garetson. Motion carried 5-0.

5. Updates/Planning/Discussion**:

- Discuss plan to address the following action items (from Board of Trustees/Zoning Board work session, previous Trustee meetings)
 - Develop/approve job descriptions for commissioners, Building Inspector, Clerk/Treasurer
 - Approve process for adding items to agendas (Zoning Board meetings/Regular Town meetings/Board of Health meetings)
 - Appeals processes - Review processes and steps and identify what is missing – Attorney input required
 - Join work session between Board of Trustees and Zoning Board (building codes, roles of each Board in building and planning) – scheduled for 7pm June 10th BOT and ZB
 - Compensation for mayor, trustees, commissioners

6. Special Additions to the Agenda**

7. Reports:**

- Town Mayor – Mayor Eddy Balch – No report
- Town Clerk – Sara Gibb – No report
Please see written report for the following:
- Building Inspector – Tom Gibb
- Zoning Board – Ed Pinalto - 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
- Ditches – Vacant
- Town Hall – Ramon Reed
- Parks and Rec – Vacant

9. Adjourn: Motion to adjourn made by Trustee Ed Pinalto. Seconded by Trustee Tom Gibb.

Motion carried 5-0. Meeting adjourned at 10:17pm

The next regularly scheduled meeting will be held **Monday, June 17th** 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

- **Building Inspector** –Tom Gibb – One fence permit issued for 909 State Street (Nasso).
- **Zoning Board** – Ed Pinalto - The Zoning Board of Adjustments Meeting was held on our scheduled date of May 13, 2024 with 3 Members physically present and Roger Lull and Jess Garetson attending via Zoom. As outlined by the 2022 Zoning Code for the coming year, the Chairperson and Vice Chairperson positions were selected and voted upon. Ed Pinalto, with a 5-0 vote, was selected as the Chairperson and Jesse Garetson, with a 5-0 vote was selected as the Vice Chairperson after little discussion.

The Setback Variance for Ed Pinalto’s property at 1016 State Street was heard with Ed Pinalto excusing himself as a member of the Zoning Board and acting only as the property owner. Jesse Garetson then conducted this portion of the meeting. After explanation of the variance and discussion/questions/answers by the ZBA Members, Ramone Reed, Board of Trustee and Tom Gibb, Board of Trustee/Building Inspector provided their opposition to the Variance being granted. After a motion and second, the Variance will be approved by the BoA, but sent to the Board of Trustees with a recommendation for approval with a request for a “Held Harmless Agreement” between the Town and the property owner with a 4-0 vote.

The ZBA voted and accepted the recommendation from the BoT/ZBA Workshop to request that any items wanting to be added to the ZBA Agenda will need to be sent to the Town Clerk no later than 12:00pm prior to the regularly scheduled meeting.

There were two read letters from property owners at 3 River Street and 507 River Street and that are nearing the 2-year mark of their Building Permits that were sent to the Town Clerk. These letters were read and accepted by the ZBA. The ZBA thanks these owners for providing a timely update of their construction.

The ZBA approved a new “Fence Permit Form” to be included in the recommendation of Updates to the 2022 Zoning Code to the Board of Trustees in the near future. The ZBA is requesting a workshop between the Board of Trustees and Zoning Board of Adjustments to review and discuss the remaining items of the Zoning Code updates.

The ZBA agreed to send two different follow up letters to Mayor Eddy Balch for the response to property owners that had provided updates to their building construction.

It was agreed upon by the Building Inspector, Environmental Health Agent, and the ZBA Chairperson that the Building Permit Tracking Spreadsheet can be updated from the Commissioner/Community Monthly Reports provided by the Building Inspector and EHA to the Board of Trustees. The Tracking Spreadsheet can then be updated without the need for the lengthy time being consumed in the ZBA Meeting in the past.

For additional information, please see the “Approved Meeting Minutes” which will be posted to the Town’s Website after the June 10th, 2024, ZBA Meeting.
- **Environmental Health** – Gayla Gibb – Discovered two addresses that should have inspection records, but there are none. Sent inquiry letters to these. Keeping track of ongoing OWTS issues in Pitkin. There are a couple of systems that need replacing. No one is currently staying at either of these properties. They have been notified. Been working with a Trust officer who is

trying to settle an estate so a property can get sold. This involves their OWTS. There are five systems to be inspected this summer. Two more are delinquent and will also receive letters to get inspections and be informed of the consequence of a fine if they do not. Letters were sent asking for acceptable access to septic tanks before the next inspection. The first of those will be in 2025.

- **Streets** – Jesse James Garetson – No Street work accomplished until permission from the town clerk
- **Ditches** – Vacant – Report from Jesse Garetson - No work accomplished, awaiting opening of bids
- **Cemetery** – Mark Rossmiller – No report until spring 2024
- **Town Hall** – Ramon Reed – No report this month.
- **Parks and Rec** – Vacant – No report.