

# PITKIN TOWN MEETING

## Newcomb Community Center

June 17<sup>th</sup> 2024 at 7:00pm

### MINUTES

- 1. Call to Order and Pledge of Allegiance:** Mayor Eddy Balch called the meeting to order at 7:10pm. Trustees Tom Gibb, Ramon Reed, Ed Pianalto and Jerra Garetson were present. Attorney Clay Buchner was present via Zoom. Minutes taken by Clerk Sara Gibb
- 2. Mayor's Report** – Repairs on Alpine Tunnel road will commence 6/18/2023. Alpine Tunnel will be closed from Tunnel Gulch (water tank) all the way up. NO access whatsoever, due to safety. This is a Federal mandate and violation will be a Federal offense.
- 3. Public comments\*:** Eddy Balch announced his resignation as Mayor, effective immediately. He then left the room.

Mayor pro tem Tom Gibb facilitated the remainder of the meeting.

- 4. Town Attorney Report\*\*:** No report

- 5. For Council Action\*\*:**

6-1 Approve meeting minutes: May 3<sup>rd</sup> Work Session, May 20<sup>th</sup> Regular Meeting

Amendments provided by Trustees Ed Pianalto and Ramon Reed.

**Motion to approve the minutes of the May 3<sup>rd</sup> Work Session as amended made by Trustee Jerra Garetson. Seconded by Trustee Ed Pianalto. Motion carried 4-0.**

**Motion to approve the minutes of the May 20<sup>th</sup> Regular Meeting as amended made by Trustee Ed Pianalto. Seconded by Trustee Ramon Reed. Motion carried 4-0.**

6-2 Discuss with possible action: Adopting Ordinance 2024-6 - Amending Ordinance 2013-3

An amendment adds to or changes the ordinance but does not replace it.

Trustee Ed Pianalto asked what has initiated the need to amend this ordinance. Mayor pro tem Tom Gibb stated that it's from an influx of individuals who intend to camp. The current ordinance (Ordinance 2013-3) only regulates camping within public property. The camping on private property is becoming increasingly an issue. There have been towns that have not contemplated the idea of camping in town thoroughly enough. Then temporary housing quickly becomes non-temporary. Current situations and future looking out for the Town prompts this. This is our job as trustees. Not just for the here and now but for the future of Pitkin. What do the citizens of Pitkin want the Town to look like in five years or ten?

If we are going to maintain what we'd like the Town to be, we are going to have to deal with this and other things.

Trustee Ed Pianalto stated that there are Trustees that have their own campers in Town right of way or have families that have campers on properties without OWTS. Mayor pro tem Tom Gibb stated that across the Town, we have multiple issues with people's stuff that resides on Town property. There is a list and there is a plan to send letters to these people to inform them of camping, parking, or things partially or totally that are in Town property that we would be very excited as a Town to see mitigated and cleaned up.

Trustee Jerra Garetson stated that she is not inclined to table this but the Town needs to work on the work session.

Attorney Clay Buchner stated that he provided a different possibility for an ordinance that includes language that is more appropriate for the current Town situation including camping on Town property and using holding tanks that addresses the health safety and welfare that the Town is looking to regulate but also allows for the use of RV/campers on Town property. It was not provided to Town Staff in time to review for this meeting. It might not meet the needs of the Town to simply amend this ordinance. It would better meet the needs of the Town to review the ordinance that was drafted.

Motion to table this item until the ordinance can be reviewed made by Trustee Ed Pianalto.

Trustee Ramon Reed would like the rest of the Board to have time to comment.  
Trustee Jerra Garetson would like to hear from the public.

Motion withdrawn by Trustee Ed Pianalto.

Trustee Ramon Reed stated that this is a safety and health issue. Pitkin does not have a sewer system. Unregulated camping in the Town of Pitkin is a health issue. We have no way of knowing where campers are dumping their waste or wastewater or what they are doing with their trash. We have no enforcement mechanism to keep an eye on things and deal with it. The Town needs a better ordinance than what we have. We are already into summer and this proposal can give something that can be enforced. Then the Town can have the work session, have discussion, look at what is appropriate and move forward.

Trustee Ed Pianalto asked why RVs need to meet setbacks. Is the Town going to ask people to meet setbacks for trailers and vehicles?

There are a lot of RVs that are self-contained. The effluent can be collected and hauled off.

Mayor pro tem Tom Gibb stated that the number of places in town that have a legitimate RV port on their septic system is one. Anyone else who is dumping into their system is doing something they're not supposed to do per Regulation 43.

**Motion to table this item until the rewritten ordinance from the Town Attorney is provided made by Trustee Ed Pianalto. Seconded by Mayor pro tem Tom Gibb. Motion failed 2-2. Mayor pro tem Tom Gibb and Trustee Ed Pianalto voted yes. Trustees Ramon Reed and Jerra Garetson voted no.**

Mayor pro tem Tom Gibb stated that systems need additional engineering to accept waste from RVs. The discussion will be dry camping on private property and how long the Town is willing to have people do that. It is possible to dry camp for 2 weeks, even with multiple children.

Public Comments: Todd Adams (2 comments), Gayla Gibb, Jim Fisher, Terri Wilcox-Burke, Jake Schellenberg, Chad Varnell, Cindy Houtwed, Jinger Guigley (2 comments), Linda Cole,

**Motion to table this item until after the work session made by Trustee Jerra Garetson. Seconded by Trustee Ed Pianalto. Motion carried 4-0.**

6-3 Discuss with possible action: Approving a job description for the Town Clerk/Treasurer

Clerk Sara Gibb confirmed that this document as well as all other documents were online for public review prior to the meeting.

Trustee Ramon Reed stated that he just received this today and he wants more time to review it.

Trustee Ed Pianalto stated that he would like the job descriptions split into two separate descriptions.

Mayor pro tem Tom Gibb stated that the first several pages refer to the Clerk's position, and then the Treasurer's position is listed after that. Trustee Ed Pianalto stated that he doesn't know if one person will always fill both positions. Clerk Sara Gibb stated that she could easily split the responsibilities into two documents.

Trustee Jerra Garetson stated that she found it very verbose and overkill for the Town of Pitkin. She has not read through the document.

Mayor pro tem Tom Gibb is not inclined to vote on something that only half the Board is fully informed on. Trustee Ed Pianalto would like to give it more time for the Board to review it in its entirety.

**Motion to table this item until all Board members have the ability to review it in its entirety made by Trustee Jerra Garetson. Seconded by Trustee Ed Pianalto. Motion carried 4-0.**

6-4 Discuss with possible action: Addressing rotten boards on Main Street Boardwalk

Mayor pro tem Tom Gibb stated that he would volunteer his time to repair the Boardwalk but he would not purchase the lumber. A coat of Super Deck is needed after the boards are put down.

Trustee Jerra Garetson discussed the history of the Boards on the boardwalk. Currently, Boards are dangerous and in poor condition. She suggests removing the boards and creating a grass walkway. She clarified that from the old café to the end of Charlie and Diane's fence the boards be removed. Trustee Ramon Reed stated that he has recently walked from the Post Office to Town Hall and there are boards that he would describe as dangerous. He suggests referring this to PHCA since they were previously involved in this. He suggests asking them if they'd like to be involved in the project.

PHCA President Gary Danhof stated that PHCA has no desire to participate in this project. He stated that he will take this to the PHCA Board at their next meeting on Monday the 24<sup>th</sup>.

**Motion to remove boards determined to be dangerous made by Trustee Jerra Garetson. Seconded by Trustee Ramon Reed. Motion carried 4-0.**

Trustee Ramon Reed asked to define who will remove the boards. Trustee Jerra Garetson volunteered to be in charge of this project.

Trustee Ed Pianalto would like the removal to be through the use of volunteers.

Mayor pro tem Tom Gibb stated he would remove the boards.

Public comments: Jesse Garetson, Marie Rossmiller, Chad Varnell, Todd Adams, Bob Taylor,

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

Clerk Sara Gibb requested additional time for the Board to review this policy and a work session.

**Motion to table this item until after a work session is held made by Trustee Jerra Garetson. Seconded by Trustee Ed Pianalto. Motion carried 4-0.**

Public comments: Jesse Garetson

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

Mayor pro tem Tom Gibb stated that a piece of property was purchased that had a road on it. It had been there a long time. Colorado Title 43-2-201 (c) states that this is a public highway "All roads over private lands that have been used adversely without

interruption or objection on the part of the owners of such lands for twenty consecutive years.”

The Town’s attorney stated at a previous meeting that this easement of Town right of way by Colorado statute and he would never suggest that the Town give up any property or change the easements to roads or established thoroughfares through the Town. With his recommendation of not giving up any property that has been established by State statute, Mayor pro tem Tom Gibb’s take on this is to apply for a fence permit that is 5’ back from the driving surface.

Trustee Ed Pinalto stated that there is an easy solution. There is room on 5<sup>th</sup> Street that the Town will never use. The Town should swap part of that property for the property on the alley. The pins can be moved.

Clerk Sara Gibb read aloud the motion made by the Zoning Board with regard to the fence permit.

Mayor pro tem Tom Gibb stated that the Zoning Board’s recommendation is not in line with the attorney’s recommendation.

Attorney Buchner stated that there are many different ways to deal with this. The overarching issue is that the platted streets and the way the streets are actually laid will never match. There have been and always will be laws in place that protects the town right of ways and public thoroughfares. It’s a dangerous precedent to start trading land with people after roads have been in place for 75 years. Someone is going to look at an old survey from an old plat and claim that the Town owes them square footage. The Town will lose the current position of the Town, which is fairly organized, square plots with roads in place. As Pitkin grows and progresses, there will be more utilities, more buildings and more infrastructure. It’s not advisable to start giving away property. We are talking about well established roads, several decades established and there’s no reason legally to give up property that has been maintained and dedicated as right of way for that long. The law doesn’t support it and it’s a dangerous precedent. He suggests that anybody who wants to build or put any permanent infrastructure without a waiver that they will move it at a future time, is to deny those requests in favor of the greater community’s interest and the established right of way that serves the public interest. He does not believe litigation is necessary. The Town is in a much stronger position. He is confident that the Town is in the right here.

Trustee Ramon Reed stated that there have been several land swaps in Pitkin. At least three were done while Mr. Reed was mayor in the 1980s. Each one of those started with a proposal with information. At the last meeting, Trustee Ramon Reed indicated that he did not want to discuss this further because he had not seen any information. He received the building permit request, the letter from the property owner, and a hand drawing - he guesses - of a fence. He would not consider a land swap without seeing the exact swap. That means the property owner would show a valid survey showing exactly what is to be swapped. If he [Mr. Varnell] wants the Board to do that, he [Trustee Reed]

hasn't seen a reason why the Board should. Until the Board sees some of that information, why should the Board consider a swap?

Trustee Ed Pianalto stated that on the land swap, the Town is the one that said it's the Town right of way. It would be Town's responsibility to do a survey of the Town right of way and what the square footage would be. The Town is basically saying it is taking the right of way so it should be up to the Town to procure the survey. Trustee Jerra Garetson stated that the Town is statutory and that we have been advised of what the law is. We are also Pitkin. She agrees the Board should see more information. The Town isn't losing land, we are swapping. If there can be an amenable situation that can be taken care of very easily, it is a win-win for the Town and the applicant. She has a problem with this being so contentious and unworkable.

Attorney Buchner stated that his point is based on objective data that has been provided to him by Town staff and trustees and in the executive session. He is not suggesting a legal battle. There are very well-established laws regarding rights of way and public thoroughfares and in this case what would be a prescriptive easement that is offset by an incongruent plat, which is incredibly common. This is not a Pitkin-specific issue. Insofar that Pitkin is willing to do a variance or a land swap that doesn't set a bad precedent, he's not suggesting against it. His advice is wholly objective based on the idea that someone can't just buy a piece of property, have it surveyed and suggest that while someone else was owned it and they were fine with the way everything was but now I own it and I want to extend my property into what is existing thoroughfare in exchange for something else, this has 2<sup>nd</sup> and 3<sup>rd</sup> order effects that should be seriously considered. If the Board wants to do some sort of variance or negotiation he is in favor of this. As far as just black and white goes, the right of way is established. This isn't a gray area of law. He appreciates small Colorado rural towns and he appreciates creativity in solutions that benefits everyone. He does not believe that solution comes from a private property owner's assertion of what they believe their rights to be unilaterally. Existing statutory and case law supports the Town's position that it is in control of the property and the current rights of way. There are multiple options to solve this.

Trustee Jerra Garetson would like the attorney to look at the property and see if there is a solution to this instead of contention.

Mayor pro tem Tom Gibb asked Mr. Varnell if he would be amenable to a square foot swap. Mr. Varnell stated "yes."

Trustee Ed Pianalto stated that at the Zoning Board meeting, an approximate 375' square foot swap was discussed. He would like to hear from the attorney on the land swap specifically. He would also like to hear the other suggestions that he has. Trustee Jerra Garetson doesn't disagree with that. She asked if it would be appropriate or helpful for him to lay eyes on what a small piece of property this is.

Trustee Ramon Reed hasn't seen anything that indicates 375'. He wants a survey of where the dispute is. There was a proposal that was turned down by this Board for a swap. He won't consider a swap without the information.

Trustee Ed Pinalto suggests the town pays for the survey because the Town is claiming the right of way. Trustee Ramon Reed disagrees with this because the property owner is the one requesting a change.

Trustee Ed Pinalto stated that he would measure with Mayor pro tem Tom Gibb and Mr. Varnell.

Attorney Buchner restated that trading land could set a dangerous precedent. He also believes there are other options including variances, easements, etc. that can possibly be discussed. He is wholly against the Town spending any money on this. The Town wouldn't even be considering this if the property owner hadn't suggested that a land swap be done. It is the applicant's responsibility to come up with an objective, measurable and certifiable application and survey for the Town to consider. It's not the Town's job to defend existing right of way based on an applicant's assertion that the right of way is in their property. The Town spending money would be a very dangerous precedent to set. It could create an untenable fiduciary responsibility on the Town. He does not suggest that the Town starts paying for surveys to prove property that the Town already knows is the Town's via statute and established law.

As the Board of Trustees, your responsibility is to the Town as a whole and to safeguard and make decisions that consider the entire town and not just individual property owners. There is no reason to pay Town money to prove something that we already know. He does not suggest the Town make those decisions. If a private citizen wants to contest Town right of way they have the burden to do so.

Trustee Ed Pinalto asked Attorney Buchner if he would be opposed to the Mayor pro tem and him meeting with Mr. Varnell to see what square footage they are looking at. Attorney Buchner is not opposed to any action taken by the Board of Trustees, who are the ultimate decision makers. He stated that the amount of land is not relevant. Any amount of Town property that is taken is what is under consideration. The Town could consider granting an easement or variance or re-platting the road. It's not the Town's responsibility to pay for this or fix it for a single property owner, especially when the right of way has been established for arguably 75 years.

Trustee Jerra Garetson stated that attorney should look at a land swap.

**Motion to table item 5-9 with the caveat that we instruct the Town Attorney to inform us of all options that he deems advisable for the direction of this town made by Trustee Jerra Garetson. Seconded by Trustee Ed Pinalto. Motion carried 3-0. Mayor pro tem Tom Gibb abstained.**

Public comments: Chad Varnell (numerous comments), Jesse Garetson, Starlene Varnell, Todd Adams, Marie Rossmiller, Jake Schellenberg

### **Discussion – Filling Board vacancy**

Attorney Buchner – Mayor is another voting member of the Board of Trustees with a couple of official extra duties such as setting the agenda and acting as the main liaison between staff and the Board of Trustees. The default procedure is for the Mayor pro tem to become the acting Mayor. The Board could decide to replace the Mayor through appointment. In this case, the Mayor pro tem would vacate the position of Trustee and a new Trustee could be appointed or an election could be held. The easiest and cheapest way to do this is to fill the vacancies by appointment.

The acting Mayor and other trustees could appoint the sitting Mayor, who would then serve in that position until the Mayor tenure runs out. Then that would go up for a vote (at the next election). A trustee can be appointed and that position would terminate when that person's tenure is completed.

Tom Gibb is the acting mayor until such time as the Board appoints a new mayor. If Tom is appointed as Mayor, his position of Trustee becomes open and can be filled by appointment.

6-5 Review Treasurer's Report. Discuss and vote on June 2024 Disbursements

**Motion to approve the June 2024 disbursements made by Trustee Ramon Reed. Seconded by Trustee Ed Pinalto. Motion carried 4-0.**

### **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
  - Compensation for mayor, trustees, commissioners

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

There was discussion on the complaint procedure.

Trustee Ramon Reed suggested posting for Mayor and/or Trustee and delaying the next meeting until after Mayor pro tem Tom Gibb returns. Trustee Jerra Garetson suggested that if the rest of the Board can be here she would like to meet. Trustee Ed Pinalto asked who runs the meeting if



the Board decides to hold the meeting. Attorney Buchner stated that another Mayor pro tem should be assigned. It's not a substantive decision, it's a temporary decision. A person can be designated as the chair to run a meeting in the mayor's absence.

When a meeting is held, it can be decided at that meeting who would act as chair. It will be the first agenda item on that agenda.

Trustee Ramon Reed is unavailable from July 15-July 24

Public comments: Chad Varnell, Todd Adams

## 7. Reports\*\*:

- Town Mayor – Mayor Eddy Balch – see above
- Town Clerk – Sara Gibb – No report  
Please see written report for the following:
- Building Inspector – Tom Gibb
- Zoning Board – Ed Pianalto - Read approved Zoning Board Minutes at:  
<https://townofpitkin.colorado.gov/documents/approved-meeting-minutes>
- Cemetery – Mark Rossmiller
- Environmental Health – Gayla Gibb
- Streets – Vacant – Mag Chloride and road grader updates – June 20<sup>th</sup> and June 25<sup>th</sup>. No parking on gravel roads.
- Ditches – Vacant – A total of forty-four man-hours of volunteer work was spent on ditches
- Town Hall – Ramon Reed
- Parks and Rec – Josh Ackerman

## 9. Adjourn: Meeting adjourned at 10:10pm

The next regularly scheduled meeting will be held **Monday, July 15<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 – 4/18/24, Ackerman, 311 First St.- permit applied for to have a crew to level up his house. This was completed with two visits with lift of almost 1 1/2" in one area. Final inspection on 6/6/24 by Tom Gibb. My comment on this would be that this crew knew their business.
- **Zoning Board** – Ed Pianalto – No June Zoning Board meeting due to no new business. The Town Board of Trustees and the Zoning Board held a joint work session on June 10<sup>th</sup> to discuss updates to the Zoning Code.
- **Environmental Health** – Gayla Gibb – One well permit issued. Also, many trips were made to a residence in Town whose neighbor put in an OWTS. They had issues with the placement of their neighbor's system, but all was legit. Attended a squirt test for one newly installed system. It should also be known that I will be out of the country from July 5--July 24.
- **Streets** – Vacant – Town Clerk is communicating with various vendors and service providers for street work and gravel delivery. No final date for mag chloride.
- **Ditches** – Vacant – Ditches are on with the exception of the mountain side of Main Street.
- **Cemetery** – Mark Rossmiller – No report (may be forthcoming)
- **Town Hall** – Ramon Reed – Town Hall Report for June 2024  
Summary of items in process for this summer:
  - 1) Pre-use cleaning.
  - 2) Replace batteries in all fire alarms.
  - 3) Fire Safety inspection for insurance.
  - 4) Finalize contract approval for stonework repair on SW corner of building.
  - 5) Entry/stairway safety inspection and work.
  - 6) Stairway assistance for Melodrama.
  - 7) Advertise for proposals for OWTS.
  - 8) Finalize proposal for 2nd floor ADA access from two options.If more detail on any of these items is wanted, I will discuss them at the Board meeting
- **Parks and Rec** – Josh Ackerman – I am in the process of speaking with Gunnison County School District to acquire a few playground sets from the schools since they are getting replacements. A few of the units had considerable damage and I decided not to take a few of them due to repair costs and liability. The good news is that I should be able to get a few nice, gently used sets for our playground. I will also be getting some soft matting to place at the new site. I need volunteers to pick up the sets from Crested Butte Elementary School and Lake School and deliver them to the Town of Pitkin playground. The date of the this pick up is not yet scheduled, the exact day has not yet been determined. I plan to have a 2-day volunteer event to help clear the area for the new sets as well as some groundwork and install of our new playground equipment, the date of the event has not been determined. As I work to secure the specific dates, I am requesting help in generating a list of volunteers that will help support this work.

I have also been in contact with Children's Play Structures out of Littleton, CO regarding repairs of our existing playground equipment. I was referred to local rep Addie and I am in talks with her on how to brace/support the playground in order to be in compliance with the manufacturer's standards. Due to our insurance liability, I want to make sure any work we do on the existing playground sets are within the scope of Children's Play Structures manufacturers acceptance. I will provide further updates on this once I hear back from the company.