

PITKIN TOWN MEETING  
Newcomb Community Center

October 9<sup>th</sup> 2023 at 7:00pm

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**MINUTES**

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1. **Call to Order and Pledge of Allegiance:** Mayor Eddy Balch called the meeting to order at 7:00pm. Trustees Chris Nasso, Jerra Garetson, Lucinda Lull, and Tom Gibb were present. Attorney Chris Mochulsky was present. Minutes taken by Clerk Sara Gibb.
  
2. **Public comments\*:** Jake Schellenberg
  
3. **Town Attorney Report\*\*:** Attorney Chris Mochulsky has accepted a new job with a law firm that has a different specialty. He is unable to keep the Town as a client. He stated that this experience has been very special to him and he has enjoyed watching democracy up close during his time serving as attorney. He thanks the residents who show up and put forth their best ideas and efforts for the Town and the Board
  
4. **For Council Action\*\*:**

10-1 Approve meeting minutes: September 11<sup>th</sup> regular meeting; September 21<sup>st</sup> work session

Work session minutes were not provided to the Board prior to the meeting and will be reviewed/approved at the next meeting.

**Motion to approve the minutes for the September 11<sup>th</sup> regular meeting made by Trustee Jerra Garetson. Seconded by Trustee Chris Nasso. Motion carried 5-0.**

10-2 Discuss and vote on allowing the Taylors to trench Main Street to install septic drainage pipes

Mr. Bob Taylor addressed the Board. He provided an update on the Hotel. They are doing everything possible to properly construct the hotel. All of the old plumbing and electrical has been demolished. Structural issues have been shored up. Currently, they are figuring out how to manage the septic and water systems at the Hotel. The Taylors have purchased the property directly across the street from the Hotel to have room for the leach field. They are using licensed electricians, plumbers, and engineers. They are working to do the job as well as they can within the constraints of the Town and County regulations. Being in a Town without a water system poses challenges. The Hotel needs two things from the Town. There is concern that the well will not provide adequate water for the hotel. They would like to install a backup water system to provide water

for guests during heavy usage times. This would need to be installed underground on Town property because this location is near the well. This location was suggested by engineers in Gunnison and the plumber. The Hotel also needs a large leach field across the street in order to comply with the standards required for the septic system. They need to run a pipe from their property at the Hotel to the new property across from Main Street.

Mayor Eddy Balch asked about the current system. Mr. Bob Taylor stated that the current 1000 (x2) tanks would be demolished and replaced with two 2500-gallon tanks. A pump will take that flow from the septic tanks to the leach field across Main Street. Mayor Balch would like to see the proposed design.

Mayor Balch asked if Mr. Taylor had an idea of estimated daily flow. He does not. A preliminary estimation was developed but the final information should be available this week. Mayor Balch stated that if the daily flow is above a certain threshold, it becomes the jurisdiction of the State. Mayor Balch asked about the graywater soil treatment area. Mr. Taylor stated that the 100 gal grease trap would be demolished and replaced with a 500 gal grease trap. Mayor Balch stated that graywater systems are not currently allowed in the Town of Pitkin. He suggested putting the grease trap in line with the septic system. Mr. Taylor stated that this was the plan for the grease trap. The final plans will be presented to the council as soon as they are available. Mayor Balch stated that the pipes under Main Street would need to be encased because they are under the roadway. Mr. Taylor wants to cut the pavement, place the pipe, and repair the roadway. Mayor Balch clarified that the pipe under the roadway would need to be encased – one pipe inside another. A six-inch line could be encased in an eight-inch line, for example.

Trustee Lucinda Lull asked if Mr. Taylor knows the size of his leach field. Mr. Taylor stated that there will be two and they are 12'x60'. The size may be adjusted based on setbacks and with regard to the neighboring property.

Trustee Jerra Garetson asked if a vote was required tonight. Mr. Taylor stated that trenching was set to begin before the end of this month. He requests perhaps a special session of the Board to approve the plans. Mr. Taylor will contact Clerk Sara Gibb when final plans are approved so she can poll the Board for a special meeting date.

Mayor Eddy Balch clarified that it's not in the Town's best interest to vote tonight in case the system falls under the jurisdiction of the State. The State would then dictate all aspects of the placement of the system.

**Motion to approve trenching across Main Street pending final design review by the Board and Town of Pitkin jurisdiction over the project made by Trustee Jerra Garetson. Seconded by Trustee Chris Nasso. Motion carried 5-0.**

Public comments: Jesse Garetson

- 10-3 Discuss and vote on allowing the Taylors to place a water storage tank on Town property adjacent to the hotel

The footprint of the water tank will be roughly 8 feet in diameter. A hole will be dug directly next to the existing coal shoot and the tank will be tied into the well. It will be deep enough to protect against freezing in the summer. An exposed manhole will be in the spot above the tank. The area will likely need to be cordoned off from parking.

Mayor Eddy Balch asked about the bury depth. Mr. Taylor will provide this on the final drawings. He estimated the hole will be 11 feet deep by 8 feet in diameter. Trustee Tom Gibb asked how close to the edge of the building will the tank be? Mr. Taylor said right up on it. Part of the tank will be under the raised walkway. Mayor Balch would like to see the specifications. Mr. Taylor will request this information to be added to the final drawing by the engineers. Trustee Jerra Garetson asked how many parking spots may be lost. Mr. Taylor stated just one. Trustee Chris Nasso asked if there were plans for additional parking across the street where the leach fields will be located. Mr. Taylor stated that potentially there may be parking but this had not be decided.

**Motion to approve excavation and installation of a 2500-gallon water tank adjacent to the hotel pending final design approval by the Town Board made by Trustee Chris Nasso. Seconded by Trustee Tom Gibb. Motion carried 5-0.**

Public comments: Jesse Garetson

- 10-4 Discuss and vote on signing Resolution 2023-5, Providing that appointed officials shall not be deemed “employees” for the purpose of Worker’s Compensation

**Motion to approve Resolution 2023-5 made by Trustee Lucinda Lull. Seconded by Trustee Jerra Garetson. Motion carried 5-0.**

- 10-5 Discuss and vote on next steps with regard to modification of premises without a permit at the Stumbling Moose Lodge

Clerk Sara Gibb stated that the Town had received several emails regarding possible modification of premises at the Stumbling Moose Lodge. When an establishment is

licensed for liquor, it is licensed by the footprint/diagram that is submitted the Local Authority and the State. Any addition or change to this must be approved by the Local Authority and the State.

Owner Jake Schellenberg asked to hear from the Trustees before making any statement. He stated that the Trustees have the diagrams. Trustee Jerra Garetson stated that she read the section on modification of premises – it does say “without prior consent of the local authority and the State.” Did it just fall through the cracks? Mr. Schellenberg stated that this is the first time he’s done anything related to a restaurant or a bar or liquor license. He did not memorize 90-some pages of the liquor law. As soon as he was notified, he contacted his liquor attorney out of Denver and he immediately sent the form that needed to be submitted. No one brought it up to him - they thought the best approach was to bring it up to the Board. Mr. Schellenberg’s attorney is familiar with what has happened and states that it’s not uncommon. The paperwork is already filled out but the State won’t sign off until the Town signs off. Mayor Balch asked, “As a business owner, whose responsibility is it to know that you’re doing the right thing?” Mr. Schellenberg stated that he has owned several businesses in his life. He is micromanaged with many rules and regulations and is audited on a regular basis. When there is an error, a plan to fix it is developed. Trustee Lucinda Lull asked if Mr. Schellenberg was stating that as a trustee, is it her responsibility to notify him when he has made an error? Mr. Schellenberg stated no. He stated that he doesn’t believe the first step is to take it to the Counsel and have a vote. He wanted to be contacted to work toward a resolution.

He stated that some of the changes had already been completed prior to approving his liquor license this year, so the Board missed it.

Trustee Tom Gibb stated that regarding modifications, he sat at every Zoning Board meeting except for one when the Zoning Code was redone. As the building inspector, he suggests sending zoning board members over to determine modifications and square footage and get a permit after the fact. The liquor license issue is going to be a little bit of a change because in order to qualify as a hotel/motel you have to have 4 or more rental spaces so the type of license may need to be changed to a different type of license. It appears that the focus is changing from lodging and food service to food and drink. This brings up issues with septic and water usage. The Board of Health may require a flow meter with regular reports. He does not recall if this was previously required or suggested. At this point, the Board may need to require these. With help from Jake’s attorney, the modifications can be dealt with and possible change of license type can be dealt with. He also suggested that it may be time for the Town to instigate business licenses. With a business license, there is a little more control of what goes on. In obtaining a business license, an owner would agree to abide by the Town’s ordinances.

Trustee Jerra Garetson stated that she does not believe this was anything criminal or fraudulent. Trustee Tom Gibb would like to deal with the permitting [building permits]. Mr. Schellenberg stated that there are 3 rental units attached to the Lodge. Trustee Tom Gibb stated that this is still less than four, which is required to qualify for a hotel/motel.

Mayor Eddy Balch stated that on his original application, seating was shown. He asked about current seating. Mr. Schellenberg stated that he hasn't counted the exact numbers. The area is pretty open. The original application stated 24 seats. They have removed 5 beds. They are not far off from 24 seats currently. Mayor Balch would like to see that to review the application to see exactly what Mr. Schellenberg is proposing. Mr. Schellenberg stated that the application didn't suggest the seating but suggested a layout. Mayor Balch stated that the updated drawing shows 3 patios. Mr. Schellenberg stated that it's technically two. Mayor Balch would like to know what is being proposed for occupancy of these additional areas. Mr. Schellenberg stated that the back patio is used when people move from inside to outside for live music. There is a large fire pit and lawn chairs in that area. Mayor Balch stated that because Mr. Schellenberg's attorney reviewed the document, the Town's attorney should also review it. Attorney Mochulsky stated that if he was to remain the Town attorney he would like to review the application. Trustee Tom Gibb asked if one of the units on the ground floor was removed. Mr. Schellenberg stated that was correct. Trustee Tom Gibb stated that he missed that renovation. Mr. Schellenberg stated that he and Trustee Gibb had a discussion about whether a wall was load-bearing. Mr. Schellenberg removed the sheet rock and some 2x4s and discovered that the wall was not load-bearing. A steel beam was placed. There was discussion about whether a building permit is required. It was determined that it was not.

Attorney Mochulsky asked for Mr. Schellenberg to clarify that the application was prepared by Mr. Schellenberg's attorney. Mr. Schellenberg stated that his attorney prepared the document and then asked for his [Mr. Schellenberg's] review. Attorney Mochulsky stated that he does not believe he can fully review the application tonight. Trustee Chris Nasso clarified that renovation of interior spaces does not require a permit so the Town is referring to the State's liquor permit. He would like the Board to facilitate a solution to this as soon as possible. Trustee Lucinda Lull agrees with Trustee Chris Nasso.

Clerk Sara Gibb will reach out and request review by Attorney O'Loughlin

**Motion to approach Attorney O'Loughlin and request for review of this application made by Trustee Jerra Garetson. Seconded by Trustee Chris Nasso. Motion carried 5-0.**

Public comments: Jesse Garetson, Ed Pianalto

In response to a public comment, Attorney Mochulsky stated that Town Business must be discussed in an open meeting.

10-6

Discuss and vote on modifications to the 2022 Zoning Code and current fee schedule suggested by the Zoning Board of Adjustment (definition of "fence," no charge for OWTS markers, no anonymous complaints accepted, fee for relocating structures within the same property)

Mayor Balch asked the Chairperson of the Zoning Code to report. Chairperson Jesse Garetson asked if the Town had received the Zoning Board's report.

Clerk Sara Gibb read the motions aloud.

Trustee Tom Gibb stated that one of the subjects that came up with regard to the fence discussion was those things that are used to mark/barricade property lines that do not meet that 5-foot setback on alleys. If those are not marked and are low to the ground, and one of our snow removal drivers hit the rock with their equipment, that would be very bad. The line of rocks needs to meet the 5-foot setback and it needs to be marked. Snow needs to be pushed pretty far in heavy snow years. The Town needs to insist that there are no obstacles in the 5 foot setback on alleys.

Trustee Jerra Garetson would like to address the definition of a fence soon because snow is upon us. Mayor Balch asked if the Zoning Board has a recommendation as to how to correct the issue of obstacles in the setback. Chairperson Jesse Garetson stated that for the rocks to be considered a fence would allow the Zoning Board to ensure that they meet setbacks. Clerk Sara Gibb suggested amending the Plowing Policy to state that alleys/roads will not be plowed if there are obstacles and sending a letter to homeowners who have obstacles that need to be moved. Mayor Balch asked the Zoning Board to make a list of homeowners to be contacted about obstacles.

Mayor Balch asked for clarification on the request to remove anonymous complaints. Zoning Board member Ed Pianalto stated that an anonymous complainer sent a complaint late, then copied the Board of Trustees stating that the complaint was not dealt with and Mr. Pianalto didn't know who to speak to about this. He is also concerned about multiple anonymous complaints against one individual. Mayor Balch asked if Zoning Board Member Ed Pianalto felt that within the Town of Pitkin there was any intimidation. Mayor Balch asked what the solution is for those who feel intimidated to put their name on a complaint. Zoning Board Chairperson Jesse Garetson stated that the Sheriff's department does not act on anonymous complaints. The Times won't print anonymous editorials. He is also concerned that it might burden the Clerk and people

may accuse the Clerk of fabricating complaints. Mayor Balch asked Clerk Sara Gibb if she felt burdened. Clerk Sara Gibb stated that no, she does not.

Trustee Tom Gibb stated that when a complaint is received, someone goes to see if the complaint is valid. If it's valid it doesn't matter if it was anonymous or not. If it was not valid, it just adds fuel to the complaint against anonymous complaints. He thinks the Town needs to keep room for the timid people in Town.

Trustee Jerra Garetson was on the Board that voted for anonymous complaints because in a small town, feelings get hurt and you shouldn't have to put your name on there. It can go the opposite way. She sees bullying. She is wavering on this and can see it both ways. Trustee Tom Gibb added that he is in favor of complaints whether they are anonymous or not and that they need to be complete and use the correct form. The forms are available and should be used. Mayor Balch addressed the concern that a complaint is hearsay. If that is the case, whoever goes out to investigate the complaint will dismiss it. Zoning Chairperson Jesse Garetson stated that one person on the Zoning Board cannot determine if a complaint is valid. He thinks a group decision about the validity of a complaint is important.

There was discussion about enforcement within the Town. Trustee Jerra Garetson thinks the Town should start with health and safety. Mayor Eddy Balch asked for volunteers to go through the ordinances and make a list of violations to submit to the Town.

Public comments: Bob Taylor, Suzy Metzler, Ed Pianalto, Chad Varnell

10-7 Review treasurer's report

Additional disbursement \$38.10 to reimburse Chris Nasso for paint for Streets

Vote to approve October 2023 disbursements

Motion to approve October disbursements with the inclusion of the \$38.10 made by Trustee Tom Gibb. Seconded by Trustee Lucinda Lull. Motion carried 5-0.

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

- Receive 2024 Budget – Draft 1

Treasurer Sara Gibb presented the first draft of the 2024 Budget to the Town Board of Trustees. Initial questions were answered.

Public comments: Ramon Reed, Suzy Metzler, Jesse Garetson

**6. Updates/Planning/Discussion\*\*:**

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

- Town Mayor – Eddy Balch – Alpine Tunnel – all stones cut plan and the plan is to finish next year
- Town Clerk – Sara Gibb – Town is in the final stages of completing our annual audit with CIRSA. Online education is ongoing and an email will be sent with additional information. The Town needs to adopt a basic inspection checklist for Town Hall. Does the Board want an RFP for attorney services to go out on the Municipal Attorney’s listserv? The Board responded “yes.” Please see written report for the following:
  - Building Inspector – Tom Gibb
  - Zoning Board – Jesse James Garetson
  - Cemetery – Mark Rossmiller
  - Environmental Health – Gayla Gibb
  - Streets – Jesse James Garetson
  - Ditches – Vacant
  - Town Hall – Ramon Reed
  - Parks and Rec – Vacant

**8. Adjourn: Motion to adjourn made by Trustee Jerra Garetson. Seconded by Trustee Chris Nasso. Motion carried 5-0. Meeting adjourned 9:45pm**

The next regularly scheduled meeting will be held **Monday, November 13<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 – One new permit for a porch roof issued since last meeting
- Zoning Board – Jesse James Garetson – No updates to report
- Environmental Health – Gayla Gibb – No updates to report
- Streets – Jesse James Garetson – Jesse James Garetson – Preparing to enter into snow plowing discussions with the County and Gunnison Valley Excavation
- Ditches – Vacant – Jesse James Garetson reporting – Ditches are still running. Property owners – please maintain the ditches along your property line.
- Cemetery – Mark Rossmiller – No updates to report
- Town Hall – Ramon Reed – No updates to report
- Parks and Rec – Vacant – No report