

PITKIN TOWN MEETING

Newcomb Community Center

October 21st 2024 at 7:00pm

Remote participation via ZOOM please use Meeting ID: **373 281 9188**

MINUTES

- 1. Call to Order and Pledge of Allegiance:** Mayor pro tem Tom Gibb called the meeting to order at 7:00 pm. Trustees Ed Pianalto, Ramon Reed and Jerra Garetson were present. Attorney Clayton Buchner was present via Zoom. Minutes taken by Clerk Sara Gibb.
- 2. Public comments*:** Chad Varnell, Chuck Kolinski, Todd Adams
- 3. Town Attorney Report**:** Attorney Buchner reported on a conversation with Chuck Cousino at the State. Attorney Buchner and Mr. Cousino walked through the process of responding to violations of CDPHE rules and he [Mr. Cousino] agrees with the Town's course of action for future violations. Mr. Cousino noted that it's atypical for a Town Pitkin's size to be their own health board. Typically, that would be enveloped by the County, but Mr. Cousino understands that the County and Town wanted to be separate from each other. The Town Board of Health should remain as it is and should enforce violations as it sees them.

Mayor pro tem Tom Gibb asked for additional input on violations.

Attorney Buchner stated that the current process is to notice violations and give the violator the opportunity to cure on their own. If it's an emergency the Town has the right to immediately mitigate. If it's a violation pursuant to Regulation 43 and not an emergency, the person should be noticed and should have a reasonable opportunity to cure. Then the Town can cure on its own and pass the cost to the violator. If they aren't paid, a lien could be placed on the property.

Trustee Ed Pianalto stated that there should be a work session with both Mr. Cousino and Attorney Buchner. He wanted to know if that is still an option.

Attorney Buchner stated that Mr. Cousino was approachable and seemed open to a work session meeting. Attorney Buchner believes that Mr. Cousino would be happy to come and answer questions. He suggests a work session 30-60 minutes before a regular meeting.

4. For Council Action:**

10-1 Approve meeting minutes: September Regular Meeting; September 10th BoH Meeting; September 24th Special Meeting

Motion to accept the minutes of the September Regular Meeting, September 10th Boad of Health meeting, and September 24th Special meeting as amended made by Trustee Jerra Garetson. Seconded by Trustee Ramon Reed. Motion carried 4-0.

10-2 Review Treasurer's Report. Discuss and vote to approve October 2024 Disbursements.

Trustee Jerra Garetson asked about the bill for Towing company. She stated she thought those posts were on private property. Trustee Ed Pianalto asked if the Town had an instrument showing that the road was Town property.

He asked Attorney Buchner – “There were three birdhouse posts that were removed. One was on the gravel but all three were on private property. Does there not need to be a legal instrument showing where that Town right of way lies since they were all within 5 feet of the property line.

Talking about two different things – Town right of way and surveyed plat. In many cases those two things won’t match up. Roads were typically platted using a 2-dimensional plat. It’s not the Town’s responsibility to prove an existing right of way. If there is a citizen that believes their property is being encroached on they have certain civil actions to take against the Town. As far as town right of way, if there’s an established roadway, the Town has the right to remove any obstacles from that right of way. Town right of ways come with an easement. Depending on how the road is worn, sometimes the road goes into the easement. You can go back to the plat and try to determine how much space the roadway should be given based on the intention of the road. If someone wants to contest public or town encroachment on Town property, they can bring it to the town, which has already been done. They can then try to file quiet title or take other civil action through their attorney or pro se as they see fit.

Trustee Ed Pianalto stated that even if the cause of the road moving is the tree on the Town property, what’s the Town’s responsibility in that?

Attorney Buchner requested additional context.

Trustee Ed Pianalto stated that there is a tree that has branches that are hanging out 12 feet from the center of the tree. That has caused people to move around the tree and onto the private property. The tree is on Town property.

Attorney Buchner stated that he couldn’t tell one way or another and that’s a tough question to answer from here. If there are branches going into an established roadway the branches should be cut.

Tom Gibb disagrees. That is Mr. Pianalto’s view. One of the other issues is the proximity of the bridge and the topography. Making turns off and onto the bridge cause a wide swing in the road and either way would go around the tree. The Town has debated this some.

Trustee Jerra Garetson stated that she thought this bill was about 7th Street. She apologizes for being uninformed. She says the Town has some other private property that is on Town property. She doesn’t understand this towing bill in this instance. She is confused.

Mayor pro tem Tom Gibb stated it’s an administrative action when there are posts in the driving surface. It’s a liability.

Trustee Jerra Garetson issued a warning to those in town who have personal stuff on Town property.

Trustee Ed Pianalto stated that the Clerk’s time sheet was sent late.

Motion to approve the October 2024 Disbursements made by Trustee Ramon Reed. Seconded by Mayor pro tem Tom Gibb. Motion failed. Trustees Jerra Garetson and Ed Pianalto voted no.

Motion to approve the October 2024 Disbursements with the exception of CB Towing made by Trustee Ed Pianalto. Seconded by Trustee Jerra Garetson. Motion failed. Mayor pro tem Tom Gibb and Trustee Ramon Reed voted no.

Mayor pro tem Tom Gibb asked the attorney to verify that hiring CB towing was an administrative action and whether he had the authority to do this. Attorney Buchner stated that it is his understanding is that the mayor has the authority to take administrative action. This is his understanding of how business has been conducted in the past. He sees this as an administrative action taken by the person acting as code enforcement or the planning and zoning official.

Mayor pro tem Tom Gibb reminded the Board that he stated in a previous meeting that this was an administrative action. He said that the Varnells should have the posts removed or the Town would have them removed.

Mayor pro tem finds this disagreement to be at odds with the Town's welfare.

Trustee Jerra Garetson is opposed to the Town removing and paying for other people's private property that's on street property.

Attorney Buchner advises that the Town pays the bill. The company was acting on agency of the Town and reasonably relied on the Town. The issue isn't on paying the bill, it's on whether the Town should have called them in the first place. This should not be made exponentially worse for the Town by not paying the bill. Do not punish a hardworking member of the community or county. Come up with an internal policy to prevent this from happening again.

Trustee Ramon Reed stated that the Board has just received advice from the attorney. He agrees with both. He thinks the Town should pay its bills. He disagrees with Trustee Garetson when she said something was wrong. He believes the mayor was in his authority to incur this bill. What is wrong is that a private citizen was blocking public right of way [Quartz Lane] and that's what it comes down to, whether that was wrong. He asked if Trustee Garetson thought it was in the public interest that public right of way was being blocked by a private citizen. Trustee Jerra Garetson stated she doesn't consider that [Quartz Lane] a public right of way. She doesn't know where the surveys are. She would not do that as a private citizen. She doesn't agree with Attorney Buchner's assessment that Trustees have administrative power. She is considering changing her vote, but she doesn't think things should be handled like this again. She thinks there is some vindictiveness and is at a loss for words.

Mayor pro tem Tom Gibb stated that it is his job to look out for the Town and the Town's property. The Town's property is on the plat, and some other [property] got

picked up by long-term adverse use. If you start chunking out pieces of property to give a piece here and take a piece there, it will negatively affect the Town's abilities in the future. He is interested in conserving Town property. He is not interested in giving away Town property. All state statute requires is a long enough period of time of use without a complaint by the owner.

Trustee Jerra Garetson would like to go on record to say that the Town will not pay for people who have private property on Town streets.

Trustee Ed Pinalto asked if, based on the attorney's remarks, Mayor pro tem Tom Gibb would be ok if he called a tree company to come and trim the tree. He called the question.

Motion to approve the October disbursements made by Trustee Jerra Garetson. Seconded by Trustee Ramon Reed. Motion carried 4-0.

10-3 Discuss with possible action: Adopting Resolution 2024-7 Unpaid Boards/Workers' Compensation

Clerk Sara Gibb provided a brief overview of Resolution 2024-7. Trustee Ed Pinalto asked if the Town paid its commissioners if they would be "stuck" under this ordinance. Clerk Sara Gibb pointed out that the resolution is specifically for "unpaid workers." No paid workers would be part of this resolution.

Motion to approve Resolution 2024-7 Unpaid Boards/Workers' Compensation made by Trustee Ramon Reed. Seconded by Trustee Ed Pinalto. Motion carried 4-0.

10-4 Discuss with possible action: Accepting a bid for the 2024-2025 snow plowing season

Clerk Sara Gibb read the parameters of the RFP. Clerk Sara Gibb read each proposal to provide the Board with information addressing the requirements of the RFP. Clerk Sara Gibb calculated average hours per snow occurrence for two winters – the average number of hours was 6.25 hours over 18 occurrences.

Trustee Ramon Reed stated that comparing these bids, the cost is pretty similar on all three overall. Because of how the cost breaks down, he doesn't see a difference. He would like to consider quality. The company that's been doing plowing for the past 3 years has had some complaints, which he was previously unaware of. Quartz Creek Company did a good job in the years when they plowed. The other company doesn't have any experience to judge. He wants to consider reliability – not just of the equipment – but the reliability of service. He did not hear complaints about GVE, nor did he hear complaints about Quartz Creek Company when they were plowing. He knows that other work he's seen from Quartz Creek Company has been outstanding. He likes the fact that Quartz Creek Company is local. GVE did not address this, but he assumes that if the Town needs GVE to come back, it would cost quite a bit of money.

Finally, with regard to experience, Elevated Vacations has none, but the other two each have multiple years of experience. He rates Quartz Creek Company the highest.

Trustee Jerra Garetson doesn't take exception to anything Trustee Ramon Reed said. She never heard a complaint about GVE and the years that Quartz Creek Company plowed were very satisfactory. She would support Quartz Creek Company primarily due to their years of experience.

Mayor pro tem Tom Gibb stated GVE with \$1300 per occurrence with no additional rate quoted was still higher than the other two bidders. Quartz Creek Company with a 7 hour maximum and then \$150 per hour after that is a better rate and so is Elevated Vacations with a 5 hour maximum and then \$150 per hour. But with a 6.25 hour on average, the Town would be looking at \$1137 with Elevated Vacations at 6.25 hours and \$1150 with Quartz Creek Company with a maximum of 7 hours.

Trustee Ed Pinalto stated that all 3 will provide insurance and have good equipment. QCC and Elevated Vacations are similar in cost with GVE higher. Two companies are local. He agrees Quartz Creek Company has 4 years of experience plowing. Elevated Vacation has experience plowing behind the County last year. Elevated Vacations provides a high amount of sales tax to the Town. He would prefer one of the two local bidders.

Trustee Jerra Garetson would concur with all of Trustee Ed Pinalto's comments.

Motion to award the bid to Quartz Creek Company made by Trustee Jerra Garetson. Seconded by Trustee Ramon Reed. Motion carried 4-0.

Clerk Sara Gibb will ensure that Quartz Creek Company has a copy of the Town's snow plowing policy and will confirm whether QCC requires a phone call to initiate plowing.

Public comments: Chuck Kolinski, Todd Adams

10-5 Discuss with possible action: Putting a culvert on 11th in Quartz Creek (Stumbling Moose Lodge Bar and Grill)

The Board did not receive any information on this request.

Requestor Jake Schellenberg stated that he's worked on this for a year. He thinks most of the Board is familiar with the fact that he has quite a few lots that are encumbered by access. He sees value in creating access via 11th and 12th Streets so that he can make use of these lots and start building homes. He wasn't looking at the Town spending any money. He was just going to put it in. He wants access to his property over there.

Mayor pro tem Tom Gibb asked if Jake Schellenberg had diagrams, sizes, or lengths in mind.

Jake Schellenberg says he thinks it was talked about in the past. There are affordable options available. A 15' diameter arched culvert would work. He forgets the County minimum width but thinks it's 16' width. He was thinking he could do a 30' or 40' culvert or do a couple of engineered bridges that are designed for 50,000 pounds each to get a 16' wide bridge 40' long that is rated at 100,000 pounds. He would be willing to move forward with any of those options. He thinks a bridge looks neater.

Mayor pro tem Tom Gibb stated that there are road specifications. Because of a previous comment from the attorney about road specifications, Mayor pro tem Tom Gibb looked that up. He stated that engineering is required in the county whether it's in a small town or even an alley. There are specifications that must be met. He suggests that Jake look up those specifications and get an engineer to help him with that. There are soil issues and there are water runoff issues. The 5th Street bridge has washed out in the past. He wants to see engineering done on a bridge and the soil. He doesn't know about the soils, but someone does and it will need to be found out.

Trustee Jerra Garetson stated that this is not her forte. She asked if the Army Corps of Engineers had been consulted and weighed in on this.

Jake Schellenberg stated that the Army Corps of Engineers does not have to be involved.

Trustee Ramon Reed stated that the idea of putting a culvert at 11th Street is interesting. The farthest culvert that he's aware of downstream on Quartz Creek is at the Middle Quartz turn-off. He estimates that it's 6' high and 10' wide. Below that, every road crossing on Quartz Creek is a bridge. The Middle Quartz turn off is above where the Middle Quartz and South Quartz Creeks combine. There should be some actual engineering to decide if it would be practical. He does not believe a culvert would be practical due to the amount of water. He doesn't know what size culvert would be required to equal the high-water mark. He knows Quartz Creek has run at and above 300 cfs. A bridge could be very expensive, even up to \$1,000,000.00. Without seeing some specifics, it's difficult to say. He discussed current and historical bridges in Town and the flood that occurred in 1984 or 1985.

Trustee Ed Pianalto would like the Board to give some clear direction to Jake Schellenberg about what he should do. He does not believe the Board knows. He wants to make sure that if Jake finds out if a culvert or a bridge would work that the Board won't kick the can down the road and delay it. He wants to be clear that the Board won't do that.

Mayor Tom Gibb also wants the abutments and the soil to be reviewed. Jake Schellenberg needs to find out exactly what this is going to take. He would need an engineer or expert to come do an on-site review.

Jake Schellenberg first wants a clear answer from the Board. He doesn't want to spend money on engineering to be told that a bridge won't be allowed. He wants confirmation that he can have a green light to put a bridge in as long as it's engineered to meet the requirements. He's not going to get engineering done to be told he can't have a bridge.

Trustee Ed Pinalto asked if the Board gives the green light to begin engineering.

Mayor pro tem Tom Gibb said he doesn't want to see a bridge blow out and go down the river. He thinks he would be comfortable saying yes, but the bases must be covered. A dam can't be built with black soil.

Jake Schellenberg suggested the Town do its due diligence and speak to the Army Corps of Engineers directly.

In response to a question about ownership, Jake Schellenberg stated that most towns vacate streets to the developer so the developer can build the streets, then the Streets will be given back to the Town. The Town at that point becomes responsible for maintaining those streets. Less common would be for the Town to vacate the streets and not take them back so the developer maintains responsibility.

Public comments: Marie Rossmiller, Chuck Kolinski, Jake Schellenberg, Pete Olson

Clerk Sara Gibb to communicate with the Army Corps of Engineers with regard to permitting for culverts/bridges in waterways.

Consult with attorney – proposed creek crossing would be within the 11th Street right of way – will it become Town property or does the developer anticipate owning and maintaining that bridge/roadway

Trustee Ed Pinalto moved to table the item putting a culvert in Quartz Creek. Seconded by Mayor pro tem Tom Gibb. 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)
 - Work Session – 2025 Budget – Monday October 28th at 6:30 pm

6. Special Additions to the Agenda**

None

7. Reports:**

- Town Mayor – Mayor pro tem Tom Gibb – Reported that the EHA has been in conversation with Gunnison County. The County has been pleased with OWTS inspections upon transfer of title.

Currently the Town requires an inspection every 7 years. EHA has suggested that the Town use the same program as the County. Most people in Pitkin are taking care of their systems. They are upgrading and getting inspected. Mayor pro tem Tom Gibb reviewed a complaint and the Town's response.

- Town Clerk – Sara Gibb – The election will be held on Tuesday, April 8, 2025.

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
- Ditches – Vacant
- Town Hall – Ramon Reed
- Parks and Rec – Josh Ackerman

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

Motion carried 4-0. Meeting adjourned at 9:50pm.

The next regularly scheduled meeting will be held **Monday, November 18th** 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 – No permits issued in September or October. Several permits completed including: Nasso fence, Metzler garage, Hughes container, Brooks porch, 9th Street Memorial fence, Bouse container
- **Zoning Board** – Ed Pinalto – The Zoning Board of Adjustment’s October meeting was held on Monday, October 14th. A Zoning Board Complaint was received and read aloud. The petitioner then asked to withdraw the complaint. The Zoning Board continued work on the Revisions to the 2022 Zoning Code. It is planned to review all updates at the next upcoming Zoning Board of Adjustments Meeting. The Zoning Board of Adjustments is still seeking a fifth member. For more information, please contact Ed Pinalto, ZBA Chairman or Sara Gibb, Town Clerk.
- **Environmental Health** – Gayla Gibb – Please see letter RE: Transfer of Title Inspections
- **Cemetery** – Mark Rossmiller – No report
- **Town Hall** – Ramon Reed – No report
- **Parks and Rec** – Josh Ackerman – The town received the Memorial Bench for the Kinser family, we will plan on organizing installation of this bench after winter. We will be working to form a team for playground improvements and safety fixes for the upcoming year. I will be looking for volunteers to help. We have a report that we have acquired from a Certified Playground Inspector and know the necessary changes we need to make. Also, we will be adding new mulch to the playground in 2025 and should have the new mulch delivered and installed before the summer season.
- **Streets** – Vacant – No report
- **Ditches** – Vacant – No report