

PITKIN TOWN MEETING

Newcomb Community Center

February 19th 2024 at 7:00pm

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

AGENDA

1. Call to Order and Pledge of Allegiance: Mayor Eddy Balch called the meeting to order at 7:03pm. Trustee Tom Gibb was present. Trustee Lucinda Lull was present via Zoom. Attorney Clay Buchner was present. Minutes taken by Clerk Sara Gibb.

2. Public comments*: Ramon Reed

3. Town Attorney Report:** Clay Buchner - introduction

4. For Council Action:**

2-1 Approve meeting minutes: January 8th regular meeting

Motion to approve the minutes of the January 8th regular meeting made by Trustee Tom Gibb. Seconded by Trustee Lucinda Lull. Motion carried 3-0.

2-2 Discuss and vote on Adopting Resolution 2024-6 (Canceling the 2024 Regular Election)

Clerk Sara Gibb reviewed Ordinance 2020-1, which allows for the election to be canceled and candidates to be elected.

Motion to adopt Resolution 2024-6 "Canceling the 2024 Election" made by Trustee Tom Gibb. Seconded by Trustee Lucinda Lull. Motion carried 3-0.

2-3 Zoning Board Request - Discuss and vote on next steps for the following building permits: Sheron Owen (410 Main), Michael Ebert (609 Main)

Zoning Board member Ed Pianalto presented. This past summer, the Zoning Board decided to track open building permits in order to increase enforcement. A spreadsheet was created to track permits from the past 3 years. Several open permits were identified. One property owner provided an update and was removed from the list. The Zoning Board decided to send letters to the remaining property owners to request an update. A copy of the letter was provided to the Board of Trustees. Copies of the building permits were provided to the Board of Trustees.

Michael Ebert's permit was reviewed. It was listed as a "remodel" and the specific project was "jacking house, new supports." The building inspector at that time indicated that an electrical permit was required. Ed Pianalto stated that there was no history of an electrical permit being pulled per the State. No communication has been received from Mr. Ebert to date.

Sheron Owen's permit in 2008 was reviewed. Several items were listed: remove back portion of house, concrete footers.

This permit was listed as a “remodel: other.” An electrical permit and septic permit were required. A 2009 permit was reviewed. A 2012 permit was reviewed, as was a 2012 replacement permit. An electrical permit was accepted and is now expired. An email was received from Sheron Owen, in which she asks for specifics on what is unfinished and clarification on why the Zoning Board sent her a letter after so many years. Zoning Board member Ed Pianalto read an email that was sent to the Zoning Board chairperson and the Town of Pitkin from Zoning Board member Gayla Gibb. Mayor Eddy Balch stated that there was a question as to whether Section 14 E is relevant to these permits or whether that only applies to non-conforming properties. Attorney Buchner stated that the code is recognizing all the buildings prior to this code as non-conforming as a default. It’s unreasonable to ask anyone under previous codes to be in conformance with this code. Any building permitted before this code is technically nonconforming by the passage of the code. Previously approved uses have to complete under the previous permit. Previously approved uses and previously issued permits must be protected. Section E has to do with permits and progress. If someone has applied for a permit but has not completed what that permit allowed, it is allowed to come to completion even with the passage of a new code. Section E has to do with anything in progress and they are allowed to complete it. Whatever that permit allowed them to do, that’s it. Anything new requires a new permit.

Mr. Pianalto asked if they would have to secure a new permit under the new code.

Attorney Buchner stated there are several options to encourage completion.

The permit was completed, the permit didn’t contemplate completion – it was a permit for an incomplete project. He advised that the grandfathering from an old permit was lost when the property owner did not provide updates.

Mayor Eddy Balch stated that the permits are a moot point. Both owners need to apply for a new permit. Attorney Buchner stated that this is correct – both permits are not completed and there have been no updates so there is no grandfathering.

Mr. Pianalto stated that biggest issue with Mr. Ebert’s permit is the requirement of the electrical permit. Attorney Buchner advised that the permit is complete but the electrical permit can be handled separately. Building Inspector Tom Gibb spoke with former Building Inspector Rand Makowski with regard to electric, who stated, “if he does any electrical work he’s going to have to get a permit.” There was no indication that Mr. Ebert planned to do any electrical work and no permit was pulled.

Mr. Pianalto asked if the Town has any responsibility to verify when a building permit is issued and it requires electrical and plumbing permits? Attorney Buchner stated that this should be someone’s responsibility. A checklist/final certificate of occupancy is how this is done.

Mr. Pianalto asked if the Board of Trustees should send a letter to the property owners to obtain new building permits if any construction occurs on either of these buildings. Mayor Balch stated that the permits are completed by what they are written for. A new permit is needed for siding for Ms. Owen’s property. Mayor Balch agreed that a letter should be drafted – existing permits complete, additional work requires a new permit. Trustee Tom Gibb stated that Michael Ebert has not pulled an electrical permit or done any work but he is anticipating having that done. Ms. Cox, Michael’s fiancé states that

electrical work is planned for the future. Mayor Balch reiterated that if electrical work is to be done, property owners should contact the state for permitting.

- 11-4 Discuss and vote on a land swap request at 428 State Street from Chad and Starlene Varnell. *This item contains an Executive session for a conference with the Town Attorney for the purpose of receiving legal advice on a land swap request from Chad and Starlene Varnell pursuant to C.R.S. §24-6-402(4)(b) (Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions)*

Motion to enter to executive session under CRS 24-6-402(4)(b) for the purposes of receiving advice from the Town Attorney on a specific legal question regarding a land swap request from Chad and Starlene Varnell made by Trustee Tom Gibb. Seconded by Trustee Lucinda Lull. Motion carried 3-0.

Executive Session 2-19-2024 8:03pm to 2-19-2024 8:18pm

Mayor Balch reopened the regular meeting at 8:19pm. Participants in the Executive Session were Sara Gibb, Tom Gibb, Clayton Buchner, Lucinda Lull, and Eddy Balch.

The Board was asked to state any concerns with regard to the subject discussed during the executive session. No concerns were raised.

Based on the advice from our attorney, Mayor Balch stated that the Town of Pitkin is not interested in a land swap and there will be no further discussion on this item.

- 2-4 Discuss and vote on ADA compliance plan for parking on 9th Street, Town Hall parking, 9th Street Pavilion picnic tables

Per CIRSA, at least one picnic table must be ADA compliant. Surfacing information for roads will be forwarded to Street Commissioner Jesse Garetson.

- 2-5 Discuss and vote on a variance request to build a roof over the front porch of the Pitkin Hotel

Zoning Board member Ed Pianto reported that the Zoning Board reviewed plans for the porch. Contractor Phil Duetsch stated at that meeting that the porch is freestanding and not attached to the hotel. There are other buildings with porches that extend over the decks on Town property. A 5-0 vote of the Zoning Board was to recommend approval to the Town Board.

Mr. Pianto asked if the Zoning Board can approve a variance request over town property or if the Board of Trustees must approve it. Attorney Buchner stated that the Zoning Code needs to address this. If the initial decision is made by the Board of Trustees, then the only means for appeal is district court. Because the variance in this

case crosses into public property, it should be a Board of Trustees decision. This should be stated in the Zoning Code.

Items on town property must have checklist – Town must be named as other insured and the town must be indemnified.

Mayor Eddy Balch stated that before the Town grants a variance, a checklist must be developed. Attorney Buchner stated that the variance could be granted contingent on the property owner fulfilling Town's requirements including that the Town is listed as other insured and signed indemnification for the Town is provided.

The variance should be filed by the landowner with the county, per Attorney Buchner

Motion to approve the variance provided they [hotel owners] give us the information as requested by our attorney and allow it to be inspected by the town at any given point and that the town is considered an insured entity on their policy made by Trustee Lucinda Lull.

Motion revised: Motion to approve the variance contingent on the following: plans are engineered, the property owner will execute an indemnification for the Town of Pitkin, the property owner will name the Town of Pitkin as an other insured, and the property owner will provide proof of insurance status upon Town of Pitkin request made by Trustee Lucinda Lull. Seconded by Trustee Tom Gibb. Motion carried 3-0.

Public comments: Pete Olson, Chad Varnell

- 2-6 Discuss and vote on the Liquor License renewal application for Elevated Vacations LLC DBA the Stumbling Moose Lodge

Clerk Sara Gibb reported that the Board has received a copy of the application and all fees have been paid. Trustees Tom Gibb and Lucinda Lull see no reason not to approve the permit.

Clerk Sara Gibb provided clarification on the modification permit that was approved in late 2023.

Motion to approve the liquor license renewal for Elevated Vacations LLC, DBA as the Stumbling Moose Lodge made by Trustee Lucinda Lull. Seconded by Trustee Tom Gibb. Motion carried 3-0.

Public comments: Ramon Reed

- 2-7 Review Treasurer's Report. Discuss and vote on February 2024 Disbursements

Motion to approve February 2024 Disbursements made by Trustee Tom Gibb. Seconded by Trustee Lucinda Lull. Motion carried 3-0.

5. Updates/Planning/Discussion**:

- Discuss a request from Jake Schellenberg to develop River Street to access his property in Block 4

Jake Schellenberg provided an update on his request. He reported that there were concerns about building on the lots in question and “some half-hearted threats to get the Army Corps of Engineers and the State of Colorado involved.” He reported that a meeting was held with multiple people from the State and Mr. Schellenberg’s attorneys at Law of the Rockies. He reports that after an extensive meeting that included a review of maps and data, it was said that he is “more than welcome to build there” and that they “can’t stop me from building there.” He wanted the Town to know that he is being proactive in making sure things are done properly and he would like to see River Street open. If the Town isn’t interested in opening the street, he would like to know. It is platted as a public street owned by the Town. If Mr. Schellenberg sells lots and that’s the only access to the lots, can the person who owns the lot use that access point [River Street] to access their property? Mayor Eddy Balch asked if Mr. Schellenberg has confirmation from the State of Colorado that moving the irrigation ditch is allowed. Mr. Schellenberg said, “yes.” The process is if it’s going to be moved, a preliminary survey must be done for the new location. Once the process is complete a 2nd survey is completed to demonstrate that the ditch was moved property. Mr. Schellenberg stated that this information came from the Army Corps of Engineers and Law of the Rockies as well as a survey company he visited with, All County Survey. Mr. Schellenberg did not recall if anyone from the State Water Board was present.

Mayor Balch clarified that Mr. Schellenberg is asking for the town of Pitkin to develop the street and move the irrigation ditch at our expense? Mr. Schellenberg stated that this is correct.

Trustee Lucinda Lull asked if Mr. Schellenberg has spoken with his neighbors who would be affected by putting in a major road and by moving a major road. Mr. Schellenberg stated that he has not and he feels like it’s somewhat irrelevant. It’s a platted street. We already know where they stand; they are not in favor of it. Mr. Schellenberg needs access to those lots. He feels this will improve property values.

Mayor Balch asked what justification Mr. Schellenberg sees in why the Town should have the expense of moving the ditch and developing the street.

Mr. Schellenberg stated that this is already owned by the Town and it will bring in significant tax revenue to the Town.

Mayor Balch asked if any estimates have been made with regard to how much property taxes would come into the Town of Pitkin. Mr. Schellenberg stated that the base home price is around \$750,000 which wouldn’t bring a significant amount of property taxes to the Town. This would bring in more people to town who would spend money in Town. Just looking at property taxes isn’t accurate.

Mayor Balch stated that if the Town develops the road and road maintenance and snow removal are required, and if there is additional traffic on Main and/or State Street, this would have a detrimental effect on Main or State Street.

Mr. Schellenberg stated that trucks could be hard on the road, so you don't want to make the road perfect while the project is in process.

Mr. Schellenberg asked if a property owner could legally drive on the grass to access their property using the Town right-of-way.

Mayor Balch stated that the Town doesn't have a set of development standards for building new roads. He would like to have a discussion and obtain legal advice with regard to new access and providing access.

Attorney Buchner stated that developers develop streets, even in a scenario where the road is platted. He discussed the term "orphan lots" and stated that those lots can't be accessed. The Town can't allow people to drive over platted, undeveloped streets for the reasons discussed earlier. Roads must meet construction criteria to manage runoff, a snow plan, etc. A master scenario must be developed so no one is building things that run off onto someone else's property. One cannot drive on grass or undeveloped roadways. Citizens cannot build their own roads without permits on platted streets. The Town should not allow anyone to drive on unimproved right-of-way.

6. Special Additions to the Agenda**

- Board of Health Meeting: 9:12pm

- Discuss and vote on the proposed OWTS design for the Pitkin Hotel – **Item tabled**
- Discuss and vote on an OWTS variance request for 222 Armstrong Street. ***This item contains a public hearing.***

Public hearing opened at 9:12pm

Chris and Jinger Guigley stated that Environmental Health Agent (EHA) Gayla Gibb will present their variance request.

EHA Gayla Gibb stated that this is a repair of a damaged system. An engineered drawing was submitted. The large, engineered drawing was not printed because the Guigley's would like the Board to weigh in first. The engineer has done as much as possible to obtain separation from the well. Tom Gibb reported that it is 77 feet from the well to the soil treatment area (STA). Jake Schellenberg, the affected neighbor, gave permission for the STA to be moved to within 5 feet of his property line, which provides an extra 5 feet of separation.

All of the other wells in that area came in under old regulations and are in the 50-foot range except for two new wells. The system will be upgraded from gravity flow to pressure dosing.

Mayor Balch asked if the applicant was addressing the additional capacity for a 6-bedroom home. Mr. Guigley confirmed that the system was designed with an additional 500-gallon tank to handle all bedrooms.

Trustee Lucinda Lull stated that she believed she should recuse. Attorney Buchner asked if there was further financial interest or personal interest. Trustee Lull denied further financial interest and personal interest. Attorney Buchner stated that Trustee Lucinda Lull may vote.

Ed Pianalto asked to verify the variance request. The Board clarified that it was for less than 100 feet of separation from the STA to the well and the 5-foot setback to the neighboring property instead of a 10-foot setback. The system is also an upgrade from a traditional gravity system to an Eljen system. Ramon Reed stated that he could not tell if the location of anything on the uphill side of the property was shown. He wanted to know if the property could accommodate a system without a variance. EHA Gayla Gibb stated that the well could not be moved to any other location due to pre-existing OWTS on neighboring properties. Mr. Guigley confirmed that they did their due diligence on the location of components.

Public hearing closed at 9:29 pm

Motion to approve the OWTS variance request for 222 Armstrong Street made by Trustee Tom Gibb. Seconded by Trustee Lucinda Lull. Motion carried 3-0.

7. Reports:**

- Town Mayor – Eddy Balch – No report
- Town Clerk – Sara Gibb – Clerk Sara Gibb requested to create a YouTube channel to host meeting videos. The Town Board agreed.

The Town must adopt an internet security policy to comply with SIPA requirements. Clerk Sara Gibb is pursuing notary certification and will notify the Town once that is completed.

Please see written report for the following:

- Building Inspector – Tom Gibb
- Zoning Board – Jesse James Garetson - Read approved Zoning Board Minutes at: <https://townofpitkin.colorado.gov/documents/approved-meeting-minutes>
- Cemetery – Mark Rossmiller
- Environmental Health – Gayla Gibb
- Streets – Jesse James Garetson
- Ditches – Vacant
- Town Hall – Ramon Reed
- Parks and Rec – Vacant

9. Adjourn: Motion to adjourn made by Trustee Lucinda Lull. Seconded by Trustee Tom Gibb. Motion carried 3-0. Meeting adjourned at 9:36pm.

The next regularly scheduled meeting will be held **Monday, March 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 report
- **Zoning Board** – Jesse James Garetson – At our 1/15/24 ZBA meeting we made a recommendation to Pitkin’s trustees to approve the Pitkin Hotel’s request for a variance for their roof over the front porch on Main Street. At our 2/8/24 ZBA meeting we had 3 members present physically, with Jesse and Rodger attending by Zoom. New Business: 1) We discussed the 2-year completion of a building permit 2) The proposed demolition permit 3) The update of our appendix A of Pitkin’s Code. All three were tabled; waiting on our new attorney’s input. Old Business: 1)The topic of House Bill 22-1362 energy code was tabled in anticipation of input from Pitkin’s new attorney 2) Worked on bringing our spreadsheet up to date on current and new permits. At both January and February meetings, continued to work on Zoning Code revisions.
- **Environmental Health** – Gayla Gibb – There are currently four ongoing projects:
 - 1) Chris Guigley submitted the repair design on his system at 222 Armstrong regarding the required setbacks. This system may be on the agenda for this February meeting.
 - 2) There have been conversations involving Tunnells’ at 215 Main Street who want to repair their system by separating it off from their neighbors. This will require some variances, but it is being engineered to maximize separation distances between components.
 - 3) Jake Schellenberg submitted plans for a new OWTS for his lots downstream and across from the Lodge property -- Lots 17-26, Block 48. It is designed for a four bedroom residence. It is an Elgin Pressure Dose System. The design is above ground to be above the high ground water levels at this location. This has been approved.
 - 4) OWTS plans for the Pitkin Hotel have been submitted to Chuck Cousino for review. He indicated he would review them before the Monday meeting.
- **Streets** – Jesse James Garetson – No report
- **Ditches** – Vacant – Report provided by Jesse Garetson – No report
- **Cemetery** – Mark Rossmiller – No report until spring 2024
- **Town Hall** – Ramon Reed – No report
- **Parks and Rec** – Vacant – No report