

**MINUTES OF THE REGULAR MEETING OF THE
FAIRPLAY BOARD OF TRUSTEES
April 19, 2010**

CALL TO ORDER WORKSESSION OF THE BOARD OF TRUSTEES

A worksession of the Board of Trustees for the Town of Fairplay was called to order at 6:00 p.m. in the Council Chambers located in the Fairplay Town Hall, 400 Front Street, by Mayor Fred Boyce. Following the pledge of allegiance, roll call was answered by Trustees Greg Johnson, Gabby Lane, Keith Wortman, and John Deagan. Also in attendance were Administrative Assistant Jeni Friedrich and Town Administrator/Clerk Tina Darrah.

Discussion with Fairplay Foundation

Rachael Edwards, President of the Fairplay Foundation, and Jeni Friedrich, Secretary of the Foundation, were both present to discuss the mission of the Foundation, the viability of the organization as it moves forward, and its fundraising and event efforts.

Discussion ensued among the Town Board, Town Staff, and Foundation Board in regards to its continued viability, the need for the Foundation as an event producer, and relations between the Town and the Foundation. It was agreed by all that the Town Staff would produce a mailing to all water billing recipients soliciting new members to determine interest in the community for the continuation of the organization.

Update on Special Events

Town Administrator Darrah offered a brief update to the Board of the planning that is taking place in regards to the numerous Town sponsored and organized events. She also updated the Board on the staff interactions with non-town organized event coordinators. Ms. Darrah also informed the Board that the Town has been asked to organize and sponsor a "Fishing Festival" type event on June 12th to coincide with the dedication of the "Dream Stream" as the Charlie Myers State Wildlife Area. She noted that this request had just happened and that staff would bring back more information after the initial meeting with the other agencies involved in the day's events.

CALL TO ORDER REGULAR MEETING OF THE BOARD OF TRUSTEES

The regular meeting of the Board of Trustees for the Town of Fairplay was called to order at 7:00 p.m. in the Council Chambers located in the Fairplay Town Hall, 400 Front Street, by Mayor Fred Boyce. Following the pledge of allegiance, roll call was answered by Trustees Greg Johnson, Gabby Lane, Keith Wortman, and John Deagan. Also in attendance were Police Chief Dave Gottschalk, Town Planner Ron Newman, Town Attorney Lee Phillips, Administrative Assistant Jeni Friedrich and Town Administrator/Clerk Tina Darrah.

AGENDA ADOPTION

Motion #1 by Trustee Deagan, seconded by Trustee Wortman, that the agenda be adopted as presented. Motion carried unanimously.

OATH OF OFFICE FOR NEWLY ELECTED OFFICIALS

Town Administrator/Clerk administered Oath's of Office to the following: Mayor Fred Boyce, Trustee Greg Johnson, and Trustee Gabby Lane.

SELECTION OF MAYOR PRO-TEM

Motion #2 by Mayor Boyce, seconded by Trustee Lane, that Greg Johnson be appointed Mayor Pro-tem. Motion carried with four aye votes and one nay vote offered by Trustee Johnson.

CONSENT AGENDA (The Consent Agenda is intended to allow the Board to spend its time on more complex items. These items are generally perceived as non-controversial and can be approved by a

single motion. The public or the Board Members may ask that an item be removed from the Consent Agenda for individual consideration.)

A. APPROVAL OF EXPENDITURES – Approval of bills of various Town Funds

Motion #3 by Mayor Boyce, seconded by Trustee Lane, that the consent agenda be adopted as presented with bills in the amount of \$73,402.56. A roll call vote was taken: Wortman – yes, Johnson – yes, Deagan – yes, Boyce – yes, Lane – yes. Motion carried unanimously.

PRESENTATION – SCOTT BULLOCK

Mayor Boyce presented Scott Bullock, with a check for \$500.00 for producing the winning logo in the Town's logo contest.

CITIZEN COMMENT

Marie Chisholm, offered public comment stating that the Town has an ordinance requiring property owners to trim trees on unsafe corners and that it needs to be enforced. She also stated that the berm constructed at the town shop is obstructing views for motorists and creating an unsafe condition.

PUBLIC HEARINGS:

Should the Board Approve Adoption of Ordinance No. 4, series of 2010, entitled, "AN ORDINANCE ADDING A NEW ARTICLE X, TO CHAPTER 18 OF THE FAIRPLAY MUNICIPAL CODE RELATING TO FLOOD DAMAGE PREVENTION, AND REPEALING IN ITS ENTIRETY ARTICLE XXIV OF CHAPTER 16 OF THE FAIRPLAY MUNICIPAL CODE."?

Mayor Boyce opened the Public Hearing at 7:11 p.m. and requested staff comment which was offered by Town Administrator Darrah requesting that this item be continued to the May 3, 2010 meeting to allow further staff corrections and review.

Mayor Boyce asked for public comment in favor of or opposed to the ordinance. No public comment was offered.

Motion #4 by Trustee Johnson, seconded by Trustee Deagan, that the Board should continue the public hearing to consider adoption of Ordinance No. 4, series of 2010, entitled, "**AN ORDINANCE ADDING A NEW ARTICLE X, TO CHAPTER 18 OF THE FAIRPLAY MUNICIPAL CODE RELATING TO FLOOD DAMAGE PREVENTION, AND REPEALING IN ITS ENTIRETY ARTICLE XXIV OF CHAPTER 16 OF THE FAIRPLAY MUNICIPAL CODE.**" until the next regularly scheduled meeting of May 3, 2010 per staff's request. A roll call vote was taken: Wortman – yes, Johnson – yes, Deagan – yes, Boyce – yes, Lane – yes. Motion carried unanimously.

Public Hearing for consideration of the FAIRPLAY SPUR RESUBDIVISION as applied for by Sage Greising acting as agent for Jay Weinburg to allow the applicant to divide the property which encompasses a 23.9 acre parcel into one 11.9 acre parcel and one 12 acre parcel.

Mayor Boyce opened the public hearing at 7:15 p.m. and read a brief opening statement stating jurisdiction and outlining procedures for the public hearing. He then asked for staff comment, which was offered by Town Planner Newman stating that that the public hearing had been published in the paper, the surrounding neighbors had been notified and that the property was posted with notice of the public hearing, all in accordance with the Fairplay Municipal Code. Staff further explained that the Planning Commission had reviewed the application and offered a recommendation of approval. Mr. Newman explained that this application was to allow the applicant to divide a 23.9 acre parcel into a 12 acre and 11.9 acre parcel both of which would be eventually conveyed to the RE-2 School District, one parcel immediately. It was recommended by staff that the Mortgagees Certificate be removed from the final plat and that the Town waive any additional submittal requirements for a final plat including the requirement for an SIA as any future development on the land will be required to meet the Fairplay Municipal Code for new construction.

Applicant's testimony was offered by Sage Greising, acting as agent for owner Jay Weinburg, offering to answer any questions of the Board.

Mayor Boyce asked for public comment in favor of or in opposition to the resubdivision. A letter from Roger and Rebecca Anderson was distributed expressing concern over potential loss of irrigation water to their property.

Mayor Boyce closed the public hearing at 7:24 p.m.

Motion #5 by Mayor Boyce, seconded by Trustee Deagan, that the Board approve the Fairplay Spur Resubdivision with the following conditions: waiver of the final plat subdivision requirements as recommended in planner Newman's report and including a waiver of the requirement for a subdivision improvement agreement. A roll call vote was taken: Wortman – yes, Johnson – yes, Deagan – yes, Boyce – yes, Lane – yes. Motion carried unanimously.

Public Hearing for consideration of an **AMENDMENT TO THE BEAVER MEADOWS PUD** as applied for by IREA acting as agent for the Town of Fairplay and Fairplay Investors, LLC to allow electric transmission lines as a permitted use on Outlot B, Outlot C, and Lot R-23.

Mayor Boyce opened the public hearing at 7:25 p.m. and read a brief opening statement stating jurisdiction and outlining procedures for the public hearing. He then asked for staff comment, which was offered by Town Planner Newman stating that the public hearing had been published in the paper, the surrounding neighbors had been notified and that the property was posted with notice of the public hearing, all in accordance with the Fairplay Municipal Code. Staff further explained that the Planning Commission had reviewed the application and offered a recommendation of approval. Mr. Newman explained that this application was to amend the Beaver Meadows PUD to allow electric transmission lines as a use by right on Outlot B, Outlot C and Lot R-23, which would then allow IREA to remove the transmission line from the rest of the Beaver Meadows subdivision. He further noted that IREA is acting as agent for owners of the lots: Outlot B and Outlot C belong to the Town of Fairplay and Lot R-23 is owned by Fairplay Investors, LLC.

Applicant comment was offered by Bill Schroeder, Manager of Public Affairs for IREA, offering to answer any questions of the Board and stating that IREA plans to move the transmission line as soon as all easements between Fairplay and Como are in place and that they are diligently pursuing acquiring these easements. He went on to state that as soon as the new line is active, the current line would be removed and the easement abandoned.

Co-applicant, Bill Davis, representing Fairplay Investors, LLC, offered statement encouraging the Board to approve the amendment explaining that this is very positive for the development of that land and that this approval would then trigger Fairplay Investors, LLC's ability and desire to pursue development of the remaining portion of the Beaver Meadows PUD.

Mayor Boyce requested public comment in favor of or in opposition to the amendment to the Beaver Meadows PUD. Town Administrator Darrah read a letter into the record from Ms. Pagels regarding concerns with the "mess" left behind during the soil sampling that had taken place recently. IREA agreed to address the issue directly with Ms. Pagels and the contractor hired to perform the testing.

Mayor Boyce closed the hearing at 7:56 p.m.

Board discussion ensued, with specific questions from Trustee Johnson, in regards to whether or not the Town should place stronger language in the PUD Amendment and the Easement Agreement to ensure that the rerouting happens by a set date, regardless of whether or not the rest of the easements between Fairplay and Como are procured. Comments were offered by IREA representatives stating that they could not do this – that the best they could do was the language in the Agreement stating they would work diligently on the procurement of easements to ensure the rerouting.

Motion #6 by Trustee Deagan, seconded by Trustee Lane, to approve the requested Amendment to the Beaver Meadows PUD pending the approval of the Easement Agreement with the Town later on the agenda.

Board discussion ensued in regards to the language of the easement agreement, and the desire for more of a guarantee that the electric line would be rerouted, during which Town attorney Phillips suggested that the Board consider going into Executive Session to receive advice from the Town Attorney.

Bill Davis offered comment begging the Board to not delay this any further, stating he did not believe any firmer a commitment to move the line was possible.

Motion #7 by Trustee Deagan, seconded by Trustee Johnson, that the Board go into executive session at 8:00 p.m. for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b). Motion carried unanimously.

Mayor Boyce announced that the meeting was back to open session at 8:20 p.m. The participants in the executive session were: Mayor Boyce, Trustees Wortman, Johnson, Deagan and Lane, Town Planner Ron Newman, Town Administrator/Clerk Tina Darrah and Town Attorney Lee Philips. Mayor Boyce announced that no action was taken in the executive session.

Mayor Boyce asked for a roll call vote on **Motion #6**: Wortman – yes, Johnson – yes, Deagan – yes, Boyce – yes, Lane – yes. Motion carried unanimously.

UNFINISHED BUSINESS

Other Pending Matters

None offered.

NEW BUSINESS

Should the Board Approve Adoption of Ordinance No. 6, series of 2010, entitled, "AN EMERGENCY ORDINANCE EXTENDING A TEMPORARY MORATORIUM ON THE PROCESSING AND APPROVAL OF ANY APPLICATION FOR A TOWN OF FAIRPLAY PERMIT OR LICENSE RELATED TO THE OPERATION OF A BUSINESS THAT SELLS MEDICAL MARIJUANA".?

Staff comment was offered by Town Attorney Phillips stating that the state legislature had not yet had a final vote on the bill before them addressing medical marijuana centers, but that extending the moratorium to June 1, 2010 would definitely allow time for the state to vote on the bill in question, thus providing the town with necessary direction in drafting regulations in concert with the state.

Motion #8 by Mayor Boyce, seconded by Trustee Deagan, that the Board should approve adoption of Ordinance No. 6, series of 2010, entitled, "**AN EMERGENCY ORDINANCE EXTENDING A TEMPORARY MORATORIUM ON THE PROCESSING AND APPROVAL OF ANY APPLICATION FOR A TOWN OF FAIRPLAY PERMIT OR LICENSE RELATED TO THE OPERATION OF A BUSINESS THAT SELLS MEDICAL MARIJUANA**". A roll call vote was taken: Wortman – yes, Johnson – yes, Deagan – yes, Boyce – yes, Lane – yes. Motion carried unanimously.

Should the Board Approve Adoption of Resolution No. 17, 2010, entitled, "A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO AUTHORIZING THE EXECUTION OF AN EASEMENT AGREEMENT BETWEEN THE TOWN OF FAIRPLAY AND INTERMOUNTAIN RURAL ELECTRIC ASSOCIATION (IREA) FOR THE PROPERTY KNOWN AS OUTLOT B, OUTLOT C AND R-23 IN THE BEAVER MEADOWS SUBDIVISION."?

Motion #9 by Mayor Boyce, seconded by Trustee Lane, that the Board should approve adoption of Resolution No. 17, 2010, entitled, "**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FAIRPLAY, COLORADO AUTHORIZING THE EXECUTION OF AN EASEMENT AGREEMENT BETWEEN THE TOWN OF FAIRPLAY AND INTERMOUNTAIN RURAL ELECTRIC ASSOCIATION**".

(IREA) FOR THE PROPERTY KNOWN AS OUTLOT B, OUTLOT C AND R-23 IN THE BEAVER MEADOWS SUBDIVISION.” A roll call vote was taken: Wortman – yes, Johnson – yes, Deagan – yes, Boyce – yes, Lane – yes. Motion carried unanimously.

Should the Board Approve Adoption of Resolution No. 16, 2010, entitled, “A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, AMENDING SECTION 14 OF THE PERSONNEL HANDBOOK TO INCLUDE PROVISIONS FOR EXTENDED SICK LEAVE ACCRUAL AND MEDICAL LEAVE OF ABSENCE.”?

Staff comment was offered by Town Administrator Darrah referring to the memo in the packet as provided by Town Treasurer Murray who could not be at the meeting. Ms. Darrah explained that this amendment would create an addition to the personnel handbook allowing “Extended Sick Leave” (ESL) to be accrued and used in the event of a serious health issue as defined in the amendment. This was being proposed due to an employee that had been seriously injured and did not have enough PTO to cover the time off that he had been required to take, thus placing a burden on Town Staff to donate their own PTO to help this employee maintain a paycheck. It was explained that ESL was the preferred method of other towns that have PTO as researched by Ms. Murray.

Board discussion ensued about the possibility of insurance policies, FMLA coverage and benefit accrual. It was agreed that this item be placed on a work session in May to allow Ms. Murray time to review the questions and to be present at the meeting.

Motion #10 by Mayor Boyce, seconded by Trustee Deagan, that the Board should approve adoption of Resolution No. 16, 2010, entitled, “**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, AMENDING SECTION 14 OF THE PERSONNEL HANDBOOK TO INCLUDE PROVISIONS FOR EXTENDED SICK LEAVE ACCRUAL AND MEDICAL LEAVE OF ABSENCE.**”

After further Board discussion it was determined that this item should be moved to a work session on either May 3rd or May 17th, therefore, Mayor Boyce asked that Motion #10 be rescinded, Trustee Deagan concurred.

Discussion Regarding COPS Grant Opportunity

Staff comment was offered by Police Chief Gottschalk explaining that he had been contacted by the COPS Grant Office in regards to a previous grant application that had been submitted for a School Resource Officer, and subsequently denied. He explained that the Town has another chance to acquire this grant if the Board is still interested. He noted that it would not necessarily be for an SRO, but for a general, entry-level police officer. He explained that the grant funding is as follows; the Town would have to commit to hire and keep the position for a full four years and the grant would cover the first three years, fully – meaning salary and benefits, making the town responsible for these costs in the fourth year only.

After a brief discussion and clarification of the funding process, the board offered consensus that Police Chief Gottschalk move forward with the granting process.

Discussion Regarding Elected Officials Dinner

Staff comment was offered by Town Administrator Darrah stating that it is the Town’s turn to host the Elected Officials Dinner and that she wanted to solidify dates and topic.

Board discussion ensued during which it was agreed to invite Vision 20/20 to attend and discuss specifically the recycling program efforts and plans. The Board was open to dates in the first half of May.

Other New Business

None offered.

Committee and Staff Reports

Written reports were in the packet from Police Chief Gottschalk and Treasurer Murray. The Board asked that Public Works Director Goble submit a written report by the next meeting. (Mr. Goble was not present at the meeting, due to prescheduled time off.)

EXECUTIVE SESSION: Pursuant to C.R.S. 24-6-402 (4) (f) to discuss a personnel matter relating to the personnel evaluation of the Town Administrator/Clerk.

EXECUTIVE SESSION:

Motion #11 by Mayor Boyce, seconded by Trustee Deagan, that the Board go into executive session at 8:55 p.m. for the purpose of discussing a personnel matter relating to the personnel evaluation of the Town Administrator/Clerk pursuant to C.R.S. Section 24-6-402 (4) (f). Motion carried unanimously.

Mayor Boyce announced that the meeting was back to open session at 10:25 p.m. The participants in the executive session were: Mayor Boyce, Trustees Johnson, Lane, and Wortman, and Town Administrator/Clerk Darrah. Mayor Boyce announced that no action was taken in the executive session.

(Clerk's note: Trustee Deagan left the meeting at the beginning of the executive session.)

Acceptance of Resignation from Trustee Keith Wortman

Comment was offered by Trustee Wortman explaining that he had moved out of the Town limits and was therefore obligated to resign. He read his resignation letter, stating that it had been an honor to work with this Board and that he appreciated the direction the Town was moving in under the current Board's guidance.

Motion #12 by Mayor Boyce, seconded by Trustee Johnson, that the Board accept the resignation of Keith Wortman as a Trustee for the Town of Fairplay. Motion carried unanimously. (Trustee Deagan absent.)

Town Administrator Darrah stated that she would publicize the vacancy and ask for letters of intent to be considered at the May 3, 2010 meeting.

ADJOURNMENT

Mayor Boyce, noting that there being no further business before the Board, declared that the meeting be adjourned at 10:32 p.m.

Fred Boyce, Mayor

ATTEST:

Tina Darrah, Town Clerk