

**MINUTES OF A REGULAR MEETING OF THE
FAIRPLAY BOARD OF TRUSTEES
October 4, 2021**

CALL TO ORDER

A regular meeting of the Board of Trustees for the Town of Fairplay was called to order by Mayor Frank Just on Monday, October 4, 2021 at 6:04 p.m. in the Council Chambers located in the Fairplay Town Hall, 901 Main Street, having previously been posted in accordance with Colorado Open Records law. Mayor Just proceeded with the pledge of allegiance, followed by the roll call which was answered by Trustees Eve Stapp, Scott Dodge, Josh Voorhis, and Peter Lynn and Mayor Frank Just.

Staff in attendance were Public Works Director Donovan Graham, Town Planner Scot Hunn, Police Chief Bo Schlunsen and Town Administrator/Clerk Janell Sciacca.

AGENDA ADOPTION

Motion #1 by Trustee Stapp, seconded by Trustee Voorhis, that the agenda be adopted and written. A roll call vote was taken: Stapp – aye, Dodge – aye, Just – aye, Voorhis – aye, Lynn – aye. Motion carried unanimously.

CONSENT AGENDA

- A. **APPROVAL OF MINUTES** – September 20, 2021
- B. **APPROVAL OF EXPENDITURES**—Approval of bills of various Town funds in the amount of **\$87,545.01.**

Motion #2 by Trustee Dodge, seconded by Trustee Lynn, that the Consent Agenda be approved as presented. A roll call vote was taken: Stapp – aye, Dodge – aye, Just – aye, Voorhis – aye, Lynn – aye. Motion carried unanimously.

CITIZEN COMMENTS

No comments were offered.

NEW BUSINESS

- A. Should the Board Approve Adoption of Resolution No. 21, Series of 2021, entitled “**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO, AUTHORIZING THE EXECUTION OF A LEGAL SERVICES AGREEMENT WITH WILSON WILLIAMS LLP FOR MUNICIPAL ATTORNEY SERVICES FOR THE TOWN OF FAIRPLAY.**”?

Sciacca presented providing a brief history, overview of the Staff Report and then recommended the Board approved Resolution No. 21 authorizing a legal services agreement with Wilson Williams, LLC. Williams provided a brief introduction along with a synopsis of her and Wilson’s resumes and qualifications. She stated that she and Wilson were passionate about mentorship and leadership and representing governments that were close to the people utilizing their diverse representation of communities as a resource for shared perspectives. Trustee Voorhis inquired about fees and how they compared to those of previous counsel. Sciacca replied the hourly rate was \$15.00 higher while the reimbursable was \$5.00 higher than those of previous counsel’s 2018 agreement.

Motion #3 by Trustee Dodge, seconded by Trustee Voorhis, to approve Resolution No. 21, Series 2021 as presented. A roll call vote was taken: Stapp – aye, Dodge – aye, Just – aye, Voorhis – aye, Lynn – aye. Motion carried unanimously. Sciacca administered an Oath of Office to Williams.

PUBLIC HEARING(S)

- A. CONTINUED FROM SEPTEMBER 20, 2021:** Should the Board Approve a Rezoning Request to Multi-Family for a Parcel of Land in Section 33, Township 9 South, Range 77 West of the Sixth Principal Meridian "Stone River Phase I" Block 11 (Lots 8-13); Block 13; Block 14 (Lots 1-12), formerly Stone River PUD, as applied for by Circle Back Development, LLC? (ORDINANCE NO. 2021-4)

Mayor Just opened the Public Hearing and provided an opening statement regarding the Board's jurisdiction, required notification incorporated as part of the record, procedure to be followed and then requested any member of the Board of Trustees to disclose any ex parte communication regarding the matter since the last meeting. Each Trustee replied there had been no ex parte communication.

Mayor Just turned the floor over the Staff. Town Planner Scott Hunn presented stating that in his updated memo he attempted to summarize concerns of the Board and public regarding density. He noted the previous zoning granted under the PUD was a range of low, medium and high density and with the concerns presented at the last meeting the applicant amended the application requesting the majority of the lots be zoned single family with the exception of the 2 largest lots which were requested to be multi-family. In order for the applicant to build duplexes on any single-family lot, the applicant would have to request a Special Use Permit (SUP), either individually, or as a blanket request with another public hearing. Hunn stated that Staff felt this was a good solution and the applicant did what the Board requested them to do and therefore Staff's recommendation remained the same.

Mayor Just requested the applicant present its case. Circle Back Development managing member Nick Petkovich clarified their application was for rezoning all of the remaining lots in Phase 1 to be single family with the exception of the single large lot in Section 13 and Lot 1 in Section 14. Mayor Just inquired what the ultimate density or total units was. Petkovich advised all lots would be single family with the exception of the 2 lots previously stated or 17 single family lots and 2 multifamily and them applying via a Special Use Permit to allow for duplexes.

Mayor Just opened the floor to public comment in favor of the application. There were none.

Mayor Just then opened the floor to public comments opposed to the application. Sheila Skaggs, 662 Tristan Loop, stated she was concerned about the overall density, parking and control of Short Tern Rental units without an HOA. Michael Petkovich clarified they never proposed an HOA nor was there one as part of the previous PUD. He clarified the PUD buildout was 350 homes and they were not seeking to expand that number and that some of the single family lots could remain single-family but they had not yet decided for certain. Joyce Robinson, 352 Stone Creek Drive, inquired about design of the homes and Mayor Just advised the public hearing was only regarding zoning and density. Rebecca Salverson, 664 Tristan Loop, stated she and her husband moved to Fairplay for the small town and felt zoning would help keep locals in Town and the properties from being sold as short-term rentals. Kathy Buter, 9 Branch Rd in Alma and owner of 662 Tristan Loop, stated her concerned was about putting duplexes on the smaller lots. She agreed with single family lots and felt that they had already indicated they would request a special use they were going to do what they wanted to there. Michael Petkovich replied that the UDC and Comprehensive Plan, both adopted by the Town, encouraged these uses on lots much smaller than the lots in Stone River, Phase 1. Mayor Just agreed and reminded that there were a large number of public hearings held when the UDC was adopted and he appreciated concerns, but this is what was approved to allow people to build on their property. Trustee Voorhis clarified that any change from single family to allow for duplexes via a Special Use application did not guarantee approval and required a separate hearing. Planner Hunn agreed with Trustee statements and clarifications on density and added the Town's minimum requirement for a single-family lot is 2, 500 s.f. but someone could apply for a Special Use and

build a duplex. In this application, all lots are 6,000 s.f. or more and therefore consistent character wise and density wise with the Town overall and that neighborhood. There being no one else wanting to speak, the Mayor closed the floor to public comment.

Mayor Just then stated he felt the Board worked with developer to obtain something more acceptable to the community that the developer had a use by right for the property they purchased. He felt the applicant was hearing the community's concerns. He reminded the Town had a significant need for housing. Trustee Voorhis felt a mix of housing was sometimes nice, that most didn't want to see the size of Fairplay go to 3,000+ people, and the Board was doing what it could at this point. Trustee Lynn reiterated comments of Voorhis regarding future meetings required on any SUP applications. Just reminded that the Board previously amended the code to require SUPs be brought before the Trustees and not be left as a Staff decision. He felt the Board and the applicants were trying to make best of this on behalf of the Town and citizens. Trustee Lynn thanked applicant for listening and going through the process and asked them to take into consideration what the existing Town is, more single-family units than duplexes and multi-family units. Mayor Just closed the Public Hearing.

The Trustees deliberated reiterating many of their previous comments. Voorhis felt duplexes might be essential for the rental population and critical for affordable housing but added that maybe not every lot should be one. Trustee Dodge inquired if the Board could condition zoning. Attorney Williams replied no, and that was part of a next step, but the developer previously agreed to a subdivision development agreement but beyond that use and develop conditions would be a future step. Dodge felt development that is consistent with the density in that area should be considered by the developer along with parking and potential individual use of the properties.

Mayor Just requested Attorney Williams advise the Board on its options for approval or rejection. Williams referred to the ordinance in the packet specifying the rezoning and advised the Board to consider the UDC section 16-5-60 and whether they agreed with what was in the ordinance. Following clarifying discussion on the ordinance presented and the specific lot zoning designations, it was discovered that the ordinance needed to be revised to

Motion #4: by Trustee Voorhis to approve as amended with correction to Section 2, being Lots 2-12, Section 14.

Following additional clarifying discussion and comment, Town Attorney Williams provided direction on a corrected motion that Ordinance 2021 No. 4 as in the packet be approved with the one amendment in the second line on the second page to read Lots 1-12 instead of Lots 2-12. Trustee Voorhis withdrew his original motion.

Motion #5: by Trustee Voorhis, seconded by Trustee Stapp, to approve Ordinance No. 4, Series 2021, with the one amendment as stated on record by the Town Attorney. A roll call vote was taken: Stapp – aye, Dodge – aye, Voorhis – aye, Lynn – aye, Just – aye. Motion carried unanimously.

- B. Should the Board Approve Rezoning Lots 1-8, Block 15, Stone River Filing No. 1, formerly Stone River PUD, and more commonly known as 650-664 Tristan Loop, from Vacant Land to Single Family Residential, as initiated by the Town of Fairplay, Colorado? (ORDINANCE NO. 2021-5)

Mayor Just announced opened the Public Hearing. Planner Hunn advised the ordinance was the Town initiating action to reestablish zoning for the lots on Tristan Loop. When the Stone River PUD expired,

even the lots that already had uses on them, reverted to vacant land. Zoning was required for the existing homes and future development/uses to happen. Town Administrator Sciacca advised she became aware of this matter upon arriving at the Town and previous Administrator Darrah along with previous Town Attorney Weiser whereby Weiser advised the Town to initiate the zoning since the properties were individually owned, many with existing homes. She reminded, that this was part of the Stone River PUD that expired and under law when a PUD expires property reverts to the former zoning, which for the subject property, was vacant land. Additionally, because there is no developer, the Town had authority to zone the property according to the use(s) existing on the individually owned parcels, which in this case is single family. Mayor Just added this was one of those instances where the Board had to go back and fix the mistakes of the past.

Mayor Just opened the floor to public comment. Josh Salverson, 664 Tristan Loop, inquired what would happen if the lots were left vacant land. Planner Hunn advised that in other PUDs he had seen that expired there were no zoning controls and no ability to obtain building permits or clearing title. Trustee Dodge added they would be non-conforming lots with homes on them. There being no further comments, Mayor Just closed the Public Hearing.

Motion #6: by Trustee Voorhis, seconded by Trustee Dodge to approve Ordinance No. 5, Series 2021 as presented. A roll call vote was taken: Stapp – aye, Dodge – aye, Voorhis – aye, Lynn – aye, Just – aye. Motion carried unanimously.

Mayor Just thanked the citizens for attending and for their comments and respect for the applicant and process.

UNFINISHED BUSINESS

- A. Should the Board Approve a Notice of Termination of Lease and Management Agreement between Vivian and Keith Pershing and the Town of Fairplay concerning the Fairplay Community Garden? Dodge recused announcing a conflict and left the dais and room. Trustee Voorhis asked for information on how the Board arrived at this decision. Trustee Lynne provided a history beginning with the cleanup day and Mayor Just advised nothing seemed to resolve itself.

Trustee Dodge announced that he was recusing himself due to a conflict and he left the dais and the Board Room. Sciacca presented reviewing the Staff Report and recommended approval of the Notice as presented in the packet.

Motion #7: by Trustee Lynn, seconded by Trustee Voorhis to approve the Notice of Termination of Lease and Management Agreement for the Community as presented. A roll call vote was taken: Stapp – aye, Just – aye, Voorhis – aye, Lynn – aye. Motion carried unanimously.

Trustee Dodge resumed his seat at the dais.

DISCUSSION ITEMS

- A. Board discussion regarding Short Term Rental units in the Town of Fairplay.

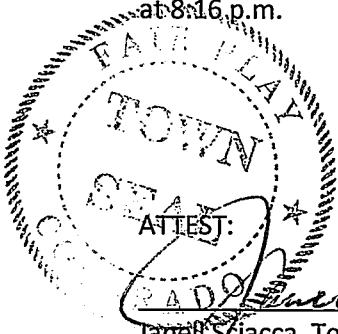
Town Administrator Sciacca introduced. Mayor Just stated he would like to get a handle on the matter right away. Following discussion, and the Town Attorney providing examples of what other communities were doing from bans to very little restrictions to no restrictions at all, the Board generally agreed to move forward with further discussing a ban with a cap of 10 units in order to protect Fairplay residents and requested Staff bring a proposal to the Board.

BOARD OF TRUSTEE AND STAFF REPORTS

Chief Bo Schlunsen provided an update on hiring a new Officer stating everything was going well. He also stated the PD was working on junk matters as well as hitting and obtaining body/dash cams. Mayor Just advised he spoke to the Chief about vehicle related noise complaints. Weight limits were also discussed for Platte and the Chief said he made multiple contacts and would continue to monitor the area.

ADJOURNMENT

There being no further business before the Board, Mayor Just declared that the regular meeting adjourned at 8:16 p.m.



Janel Sciacca

Janel Sciacca, Town Clerk

FAIRPLAY BOARD OF TRUSTEES

Frank Just

Frank Just, Mayor