

**MINUTES OF A REGULAR MEETING OF THE
FAIRPLAY BOARD OF TRUSTEES
September 20, 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 September 20, 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 Scott Dodge, Mayor Frank Just, and Trustee Josh Voorhis (via telephone). Trustee Eve Stapp was absent due to illness.

Staff in attendance were Town Treasurer Kim Wittbrodt, Town Attorney Paul Wisor (via Zoom), Public Works Director Donovan Graham, Town Planner Scot Hunn and Town Administrator/Clerk Janell Sciacca.

AGENDA ADOPTION

Motion #1 by Trustee Dodge, seconded by Trustee Voorhis, that the agenda be amended to move New Business item C, Appointment to fill Vacant Seat on the Fairplay Board of Trustees, up on the agenda prior following the Consent Agenda. A roll call vote was taken: Dodge – yes, Just – yes, Voorhis – yes. Motion carried unanimously. (Trustee Stapp absent)

Motion #2 by Trustee Dodge, seconded by Trustee Voorhis, that the amended agenda be adopted as stated. A roll call vote was taken: Dodge – yes, Just – yes, Voorhis – yes. Motion carried unanimously. (Trustee Stapp absent)

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 MINUTES – August 2, 2021 and August 16, 2021

B. APPROVAL OF EXPENDITURES—Approval of bills of various Town funds in the amount of **\$95,865.31.**

Motion #2 by Trustee Dodge, seconded by Trustee Voorhis, that the consent agenda be adopted as presented. A roll call vote was taken: Dodge – yes, Just – yes, Voorhis – yes. Motion carried unanimously. (Trustee Stapp absent)

NEW BUSINESS

Appointment to Fill Vacant Seat on the Fairplay Board of Trustees; Administration of Oath.

Mayor Just invited sole applicant Peter Lynn to speak. Lynn stated he was a Fairplay resident since 2005 and applied to join the Board in order to start helping maintain liberties and freedom for his generation as well as to be involved and help the community grow balanced and freely. Town Administrator/Clerk Sciacca administered Lynn's Oath and he took his seat at the dais.

Trustee Voorhis excused himself from the meeting citing the need to attend a Fire Planning Meeting for the incident he was on in California for the USFS. Mayor Just thanked Voorhis for his participation.

CITIZEN COMMENTS

Kevin Sellars, 1111 Teton Trail, Como. Sellars, South Park High School and Middle School Principal, stated the School wanted to do more community outreach and advised he spoke to Public Works Assistant and Special Events Coordinator Julie Bullock regarding the Town's sponsorship and installation of 4 new banners at Main and 7th in order to allow the community to recognize South Park as home of the Burros. He thanked the Board for agreeing to consider this. Treasurer Wittbrodt advised

that there was available money in the budget and the Board agreed to allow Staff to move forward with the project.

PUBLIC HEARING(S)

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.

Mayor Just provided an opening statement and inquired if any member of the Board of Trustees had any ex parte communication with the applicant and each trustee replied there had been none.

Just continued with his opening statement announcing the jurisdiction of the Board and form of proceedings and then inquired if there were any objections to the either. Hearing none, the Just opened the Public Hearing. Town Planner Scott Hunn presented the Staff Report including an overview of the history of the property and expired Stone River PUD, details of the Circle Back Development LLC zoning application and Staff's recommendation for approval subject to the one condition regarding a Subdivision Improvement/Development Improvement Agreement for collateralization of infrastructure.

Nick and Michael Petkovich, Managing Partners of Circle Back Development, Denver, CO provided a history of why they purchased the property and stated that Town's Comprehensive Plan matched their vision for building. They hired Peter Ewers, a nationally renowned architect, who builds energy efficient and environmentally consistent. There will be approximately 6 different contemporary log home look designs that are economically diverse that belong in a Colorado mining town. The plan is to build a single-family home on one of the lots and duplexes on the others.

Mayor Just reminded everyone present of the purpose of the evening's meeting regarding zoning and density. Nick Petkovich advised they also hoped to help address the Town's housing shortage with their project which included a good amount of density which would bring people to town.

Mayor Just opened the floor to comments in favor of the application. There being none, the Mayor opened the floor to comments against the application:

-Tom Coolidge, 439 Fuller Drive, questioned the phasing and total number of units.

-Sheila Skaggs, 666 Tristan Loop, was concerned about the density and traffic congestion that already existed in area and requested they work with CDOT on access to US 285. Michael Petkovich stated they were not seeking to expand on the 350 homes approved in the previous PUD. The lots were in the previous PUD designated as duplex lots and multi-family. The Mayor asked the developer to restate the proposed zoning. Petkovich replied Lot 13, Section 11, would be a multifamily lot but there had been no decision on what exactly was to be built there. Lots 8 & 9, Section 11 would be single family and the rest of the lots would be duplexes, all of which were consistent with the previous PUD.

-Norwood Price, 652 Tristan Loop, stated he was totally against the project and he thought nothing would be built there since the PUD expired. Michael Petkovich stated his appreciation of Price's concern but felt the Town's Comprehensive Plan and UDC supported their application and he hoped to work with the Town on solutions to address any traffic impacts.

-Kerry Lynne, 850 Hathaway, was concerned with who would buy the homes and felt they would be purchased by short-term rental owners. Petkovich stated he would not rebut her concerns because they were legitimate, but he hoped a large portion of the people buying them would be living and working in the community. Town Planner Hunn inquired about the potential of HOA restrictions. The applicant replied there would be no HOA with individual property owners.

-Rebecca Salverson, 664 Tristan Loop, echoed the concerns of the others who spoke before her citing her personal experience as a teacher and seeing the School District hire teachers just to have them quit because they could not find or afford a house. She was also concerned about the road being able to handle the additional traffic volume. The applicant responded that more people would help businesses and in turn provide additional money to the Town to help care for Platte Drive. Mayor Just

advised that Platte Drive is dual ownership with the County, and the Town restricts mining traffic so he encouraged the residents to call the Town with issues.

-Josh Salverson, 664 Tristan Loop, inquired what housing prices would start at. The applicant replied their realtor felt the high \$300s to \$500's with some higher, but none over \$800k and they would try to build as many as possible in the lower ranges. Salverson stated those prices were not affordable for anyone working or living in Fairplay.

-Julie Beitscher, 872 Trout Creek Drive, inquired about the adjacent mine and its proximity to the development. Mayor Just reminded of the purpose of the meeting regarding the zoning application and advised the mine is out of the City's jurisdiction.

-Kathy Butler, 9 Branch Road in Alma and owner of and owner of 662 Tristan Loop, questioned the development timeframe and phases. The applicant stated the current application is Phase 1 of the 8 phases that were previously approved in the PUD. These lots already have infrastructure, and they are ready to submit architectural drawings and get a building permit to put in the foundations before the winter freeze, but construction would be dictated by market demand. 15 lots will have duplexes and 2 lots will have single family homes but use of the 2 biggest lots had not been decided yet. The foundations will be put in and those lots marketed with architectural drawings. He felt the Town's Uniform Development Code supported the development in that area.

Mayor Just stated his concern about the potential density that could result and encouraged the Board to think about how much they would allow on the land and what they could reasonably do to negotiate with the developer. He inquired about further comments

-Rebecca Salverson, 664 Tristan Loop, felt the exact density and timing questions were not answered. Mayor Just felt these concerns were paralleled by the Board. The applicant read from the narrative under Tab 5 of the application packet which detailed the exact plans and stated on the record they would only build duplexes and not fourplexes or larger. The Mayor stated the biggest consternation was that under the Town's code, and build by right rules and regulations, the applicant could increase the density beyond what was stated. The applicant felt the regulations would prohibit this due to the s.f. lot requirements.

Town Attorney Paul Wisor clarified the Comprehensive Plan identifies that both single family and multi-family zoning designations only apply "if" compatible with the neighborhood. He stated the multifamily designation may not be compatible with the neighborhood as it currently exists and there is evidence in the record for moving forward with a single-family recommendation which could also still achieve the developer's goals. Michael Petkovich stated the concerns were valid and he would be happy to alleviate them if the Town could designate the two largest lots at multifamily, the two as single family and the others as duplex lots. Wisor then suggested the Town continue the matter and Staff could work with the applicant to amend the application to identify those properties that better fit as single family and multifamily or all be zoned single family. The applicant volunteered to put his statements in writing but did not want to see a delay and he felt the terms of the PUD were not changing in terms of what was being built, it was only the zoning. Wisor felt site-specific zoning was difficult and a 2 week delay was appropriate in order to protect the Town. Mayor Just felt the easiest solution was to designate single-family zoning with the applicant having the right to come back to the Town and request a Special Use Permit. This would permit the Board to have more control. The Mayor also reminded of the applicants rights for use of the property. The applicant generally agreed but requested a collective Special Use application and hearing. Wisor felt that could be accomplished. Mayor Just requested a continuance to the October 4, 2021 meeting with the applicant to get with the Town Planner to submit an equitable solution. Planner Hunn requested clarification on the process and Wisor advised the Board to continue the matter, and after discussion with Staff, the applicant could withdraw and submit a new application if desired.

- Julie Beitscher, 872 Trout Creek Drive, questioned the zoning for Lots 1 and 13 to multifamily and whether that was in the public's best interests.

Mayor Just opened the floor to questions from the Trustees. Trustee Dodge inquired if Lots 8 & 9 were those the applicant was going to come out of the ground with foundations on. The applicant replied Yes. Dodge also questioned why the applicant was not including all lots in the PUD. The applicant replied it was because the lots in the other Phases were not developed with infrastructure. Dodge asked what the homes on Tristan Loop were zoned. Hunn replied they were unzoned and considered vacant land. Town Administrator Sciacca advised that Staff would be bringing forth action at the next meeting for Board initiated zoning for single family for those properties at the next meeting. Trustee Lynne felt there needed to be an agreement as the homes were needed and he respected and appreciated everyone sharing.

Motion #3 by Trustee Dodge, seconded by Trustee Lynne, to continue the public hearing to the Board's October 4, 2021 regular meeting. A roll call vote was taken: Dodge – yes, Just – yes, Lynne – yes. Motion carried unanimously. (Trustees Stapp and Voorhis absent)

The applicant requested the ability to appear by phone or zoom due to a family wedding and the Board felt that would be appropriate.

UNFINISHED BUSINESS

A. Other Discussion Items. None offered.

NEW BUSINESS

Board discussion regarding Community Garden Lease and Management Agreement for 600 Front Street.

Town Administrator / Clerk Sciacca provided a brief history and overview on the subject. Mayor Just advised of his personal experience and understanding that the Pershings would sell the property to the Town. He also stated he had knowledge of statements made by the Pershings that there were ulterior motives. Trustee Lynn provided his position and questioned some of the funding potentially going to the Pershings. He did not have confidence in the Pershings and did not personally want to continue on that property. He felt it would be best to go where the project succeeding was most probable. Trustee Dodge felt the intent was there to enhance and beautify the property but felt no more time and effort should be wasted on this property and they find a property that would belong to the community. Following additional discussion regarding use of taxpayer monies, the Board generally agreed termination of the lease was appropriate and requested a letter be drafted and brought back to the Board for approval. Town Attorney Wisor advised he had that letter and would forward it to Sciacca.

Board discussion regarding Municipal Attorney Services and Legal Representation for the Town.

Town Attorney Wisor announced he had been appointed Town Manager for Mountain Village and advised his firm was willing to represent the Town as long as the Board so chose. However, he would also provide the Town a list of firms that might be better able to serve the Town of Fairplay. The Board directed Staff to work with Paul Wisor to come back to the Board with recommendations for them to consider.

BOARD OF TRUSTEE AND STAFF REPORTS

Public Works Director Donovan Graham provided an update stating they were closing out summer projects, were on hold for potholes until a new plate compactor could be obtained, were working with Engineer Bill Hahn to complete the infiltration gallery test using gravity feed only to see what kind of flow is received and that the gallery recharges, and the new pickup was being built and should be received in November.

Graham also provided a Special Events update for Coordinator Bullock who was closing out summer events, working on budget detail for each event, working on the December 4 Christmas celebration and holiday lighting contest, confirmed a Holiday Bazaar at the school, scheduled the Mountain Mardi Gras for February 26, adjusted the layout for events to allow for more vendors, get trained on the Burro Days website, and booking 2022 bands. For Marketing and Public Works she is starting to update documents but wants to focus on digital marketing, wants to get a new website, is working on the Fall newsletter and is getting a handle on Public Works organization, helping to get Donovan in to his office and working on getting rid of old Water & Sewer documents as necessary.

Town Administrator Sciacca reviewed a written report. For personnel, she reported Graham was offered and accepted the Public Works Director position and Alex Wagner was promoted to Crew Chief and she met all Staff with exception of the two female officers. She toured facilities with Graham's help and was reading a lot of documents. She advised that for projects she had received the 501 Main architectural drawings for preparation of bids, located the River Park Phase 2 bid documents and would get that back out for bid in October, and she toured Cohen Park while Graham was obtaining new quotes for the Basketball Court. She also noted several possible upcoming development and land use applications and reviewed upcoming meetings and important dates.

Trustee Dodge thanked all the Staff that helped to put on the service for former Mayor Gabby Lane and making is so special for the community. He also thanked Trustee Lynn for stepping up to be a voice for the community.

Mayor Just suggested a DOLA Elected Official training session be scheduled at some point in the future for the Board.

Trustee Lynn stated his appreciation for the opportunity serve.

Mayor Just thanked Lynne for joining the Board and echoed Trustee Dodge's comments regarding the Staff's work on Gabby Lane's service. He felt Gabby would have been proud!

ADJOURNMENT

There being no further business before the Board, Mayor Just declared that the regular meeting adjourned at 8:12 p.m.

FAIRPLAY BOARD OF TRUSTEES

Frank Just, Mayor



ATTEST:

Janell Sciacca, Town Clerk