

**MINUTES
CARBONDALE BOARD OF TRUSTEES
REGULAR MEETING
DECEMBER 8, 2020
VIRTUAL MEETING VIA ZOOM**

Mayor Dan Richardson called the Board of Trustees virtual Regular Meeting to order on December 8, 2020, at 6:00 p.m.

ROLL CALL:

The following members were present for roll call:

Mayor	Dan Richardson
Trustees	Marty Silverstein
	Lani Kitching
	Heather Henry
	Luis Yllanes
	Erica Sparhawk
	Ben Bohmfalk

Staff Present:

Town Manager	Jay Harrington
Town Clerk	Cathy Derby
Finance Director	Renae Gustine
Public Works Director	Kevin Schorzman
Town Attorney	Mark Hamilton
Town Attorney	Tarn Udall

CONSENT AGENDA

- Accounts Payable totaling \$300,922.47
- BOT 11-17-20 Work Session Minutes
- BOT 11-24-20 Regular Meeting Minutes
- Liquor License Renewal – American Legion
- Liquor License Renewal – Cripple Creek Backcountry
- Right-of-Way Lease – 211 Euclid Ave.
- Recommendation for Appointment – Tree Board

Trustee Sparhawk made a motion to approve the Consent Agenda. Trustee Kitching seconded the motion and it passed with:

7 yes votes: Richardson, Henry, Yllanes, Silverstein, Kitching, Sparhawk, Bohmfalk

EMPLOYEE RECOGNITION

Cathy Derby was recognized for 15 years of employment with the Town.

PERSONS PRESENT NOT ON THE AGENDA

There was no one present who wished to address the Board.

TRUSTEE COMMENTS

Trustee Sparhawk stated that she attended the Colorado Communities for Climate Action (CC4CA) meeting. They passed their 2021 budget. CC4CA is thriving and continuing to grow. Snowmass Village is considering joining. They are being flexible with member dues because of COVID's impacts on municipal economies.

Trustee Bohmfalk stated that he attended the Bike/Pedestrian/Trails Commission meeting. Police Chief Kirk Wilson attended the meeting and discussed the traffic study on 8th St. The speed limit on 8th St. is 20 mph. They found that less than 1% of the cars on 8th St. are driving faster than 30 mph.

Trustee Silverstein thanked Cathy for her service to the Town. Trustee Silverstein stated that today is Colorado Gives Day. He encouraged everyone to contribute to non-profits and the contributions will be matched.

Trustee Yllanes stated that he will be attending the Parks and Recreation Commission meeting tomorrow. They will be discussing the Aquatics Master Plan, special events, and rental of the community stage. He thanked the Recreation Department staff for their hard work on the Turkey Trot which was well attended. He noted that the Carbondale Public Arts Commission has not met in a while. They will be meeting in January. The Art Around Town sculptures have already been selected.

Trustee Kitching announced that AARP will host a webinar for seniors on December 10 from 9:00 am – 12:00 pm. The topic is adapting to COVID – registration is required. Trustee Kitching stated that there is free COVID testing behind Town Hall. The Aspen Airport will also be setting up a COVID testing site, she attended a training and is now certified to be a tester.

Trustee Silverstein stated that in order to get a COVID test you must go to the website and make an appointment. You should get the results in two days.

Trustee Sparhawk thanked the Recreation Department, who continue to go above and beyond in their efforts on First Friday, etc.; it was a great event.

Mayor Richardson stated that he attended the COVID-19 Task Force meeting. He acknowledged Ryn Calhoon and Erica Sparhawk who were instrumental in setting up the free Carbondale COVID testing site. The Task Force has created a resource guide including frequently asked questions. The guide will be translated into Spanish. The

Community Hero Award, which had been presented at the Board meetings, then discontinued, will resume.

Mayor Richardson stated that he attended the RFTA Enforcement Committee meeting. They looked at encroachments on the Rio Grande Trail. There are a few significant encroachments which RFTA staff have been encouraged to address. Mayor Richardson congratulated Town staff for their work decorating the downtown with holiday lights – they are beautiful.

ATTORNEY'S COMMENTS

The attorney did not have any comments.

PUBLIC HEARING – ADOPTION OF 2021 BUDGET; COMMUNITY REQUESTS; RESOLUTION NO. 13, SERIES OF 2020 – SUMMARIZING EXPENDITURES AND REVENUES AND ADOPTING A 2021 BUDGET; ORDINANCE NO. 15, SERIES OF 2020 – APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES; RESOLUTION NO. 14, SERIES OF 2020 – LEVYING GENERAL PROPERTY TAX FOR 2020; ORDINANCE NO. 16, SERIES OF 2020 – APPROPRIATING ADDITIONAL SUMS OF MONEY TO DEFRAY EXPENSES IN EXCESS OF AMOUNT BUDGETED

Renae presented the 2021 budget and the following points were made:

- The budget process began in August
- Staff will continue to scrutinize the tobacco tax – next year the tobacco tax revenue is estimated to be \$450,000 – the State has passed a tobacco tax and staff is not sure if it will affect our revenue source
- Staff is being conservative on fees revenue due to the lingering effect of COVID
- The General Fund will have reserves of approximately \$6.89 million representing 79.9% of our annual operational costs
- The Supplementals are mostly CARES funding and Trash Fund overflow fees
- The Town's Community Request contributions doubled this year to \$140,000 – this is a one-time increase due to COVID

Discussion ensued.

Trustee Bohmfalk asked for clarification on the decrease of revenues of 5.7%. Renae explained that we are budgeting conservatively. Trustee Bohmfalk asked if we are prepared financially if the tobacco tax is lowered. Jay stated that we currently have \$300,000 in the Tobacco Fund. We are scheduling the tobacco stake holders on the January 2021 work session. Trustee Bohmfalk asked if the Communication Fund is \$50,000? Renae answered that there is an additional \$30,000 in Board's budget for the single-use plastics project. The Environmental Board's budget contains \$25,000 for the Climate Action Plan.

Trustee Yllanes asked if the CARES Act money that the Town gave to the Aspen Community Foundation stayed within the Town? Jay stated that we should be getting a report soon and the Town has requested proof of expenditures.

Mayor Richardson opened the public hearing. There was no one present on Zoom who wished to address the Board so Mayor Richardson closed the public hearing.

Trustee Sparhawk made a motion to approve the 2021 Budget, Community Requests, Resolution No. 13, Series of 2020, Ordinance No. 15, Series of 2020, Resolution No. 14, Series of 2020, and Ordinance No. 16, Series of 2020. Trustee Silverstein seconded the motion and it passed with:

7 yes votes: Sparhawk, Bohmfalk, Kitching, Richardson, Henry, Silverstein, Yllanes

RFTA – WASTE WATER TREATMENT PLAN – AGREEMENT AND DEED EXCHANGE

Kevin explained that RFTA is addressing encroachments on the Rio Grande Trail. The Town's waste water plant fence goes over the right-of-way and thereby encroaches on RFTA's land (ICC Parcel#14 which extends from north of the Roaring Fork River to the east side of SH-133). The Town's water and sewer lines also run under a portion of Parcel #14 which creates an issue with quitclaiming any Town interest over the entire parcel. The legal description for the quitclaim deed contained in the packet will need to be reduced to that portion of Parcel #14 directly adjacent to the waste water plant. RFTA is giving the Town 30 feet of land next to the waste water treatment plant, and the Town will quitclaim interest in the remaining 170 feet of ROW adjacent to the parcel that RFTA is giving the Town. Due to the necessary change in the quitclaim deed, Kevin recommended that the Board authorize the Mayor to execute the agreement with RFTA, as well as the quitclaim deed to RFTA, contingent upon staff's and the Town Attorney's final approval of the documents in the packet.

Trustee Sparhawk made a motion to authorize the Mayor to execute the agreement with RFTA, as well as the quitclaim deed to RFTA, contingent upon staff's and the Town Attorney's final approval of the documents in the packet. Trustee Yllanes seconded the motion and it passed with:

7 yes votes: Bohmfalk, Kitching, Richardson, Henry, Silverstein, Yllanes, Sparhawk

ORDINANCE NO. 17, SERIES OF 2020 – AMENDING THE METHOD OF COMPUTATION FOR MEASURING THE DISTANCE FROM SCHOOLS TO LIQUOR ESTABLISHMENTS

Tarn noted that the Trustees are not discussing a particular liquor license application tonight. At the last meeting the Board had questions on liquor licensing and the attorneys have provided answers to their questions. The Board has the authority to eliminate or modify the State liquor regulations. The Board had asked why the State has a distance requirement. Tarn said the requirement is to protect children

from exposure to alcohol. Jay stated that at the last meeting the discussion focused on the Marketplace. A brew pub would like to open on Dolores but because of a new crosswalk they would be unable to do so due to the proximity of a school. At the last meeting it was mentioned that a pub was able to open on West Main Street within 500 feet of a school. Jay clarified that the land nearest the pub was purchased for open space.

In Tarn's memo she provided examples of municipalities who have changed the liquor regulations.

Discussion ensued.

Trustee Bohmfalk stated that he appreciates the intent to protect school children. He asked if the children in towns who eliminated the distance requirement have been increasingly exposed to intoxicated people. Tarn answered that she doesn't know.

The Board asked what factors are considered for a liquor application? Tarn replied needs and desires of the community, moral character, number and types of licenses, and the neighborhood where the business will be located.

Trustee Bohmfalk asked what is the distance requirement between retail liquor stores? Tarn answered the State changed the regulations to 3,000 feet in 2016.

Mayor Richardson opened the meeting to public comment.

Michael Zhang, owner of Mings, stated his new restaurant will be finished soon. If he can't sell alcohol he will be turning away a lot of business. He noted that COVID has hit the restaurant community hard.

Renee Grossman, owner of High Q, stated that the ordinance is sensible. Carbondale is growing quickly and there is a lot of development. It's not good to have the vacant commercial land remain empty because of a school. The ordinance doesn't impact the safety of children. She believes the setbacks should be removed altogether.

Adam Stapen, attorney for City Market, stated that the opposition is competition based opposition. He hasn't heard how the proposed ordinance would negatively affect school attendees. If you pass the ordinance a new liquor license application would require a public hearing and the needs and desires of the neighborhood would need to be addressed. City Market is a cornerstone of the community.

Jay Magidson, representing Roaring Fork Brewery, stated that they want to open a brew put on Dolores but Double Diamond built a crosswalk and now they are too close to a school.

Kevin Jones, NY Pizza, agrees with Michael Zhang that each license should be looked at individually.

Mayor Richardson responded that when we look at policies it's useful to lump them altogether.

Julie Tran, owner of Main Street Wines and Spirits, agrees that each license should be reviewed individually. Carbondale is a small town. We don't need another large retail liquor store. Think about small businesses, we put money back into the community. Consider the impact on small businesses if a large retailer comes in and sells the same product.

Frederico Pena, owner of Sopris Liquor & Wine, stated the State determined the distance for Fermented Malt Beverage licenses to protect existing retail licenses. The Town should abide by the Carbondale Mission Statement to maintain a family oriented small town. He agrees that the Board should separate distance requirements for on and off premises – it's a great compromise.

Trustees Sparhawk, Kitching, Silverstein and Henry agreed that the distance requirement should not pertain to on-premises licenses, only to off-premises licenses.

Trustee Bohmfalk and Mayor Richardson support eliminating the distance requirement for both on and off-premises licenses.

During the break Tarn amended Ordinance No. 17 to exempt certain classes of alcohol beverage licenses from the distance from schools restrictions.

Trustee Sparhawk made a motion to approve Ordinance No. 17, Series of 2020. Trustee Yllanes seconded the motion and it passed with:

5 yes votes: Kitching, Henry, Silverstein, Sparhawk, Yllanes
2 no votes: Bohmfalk, Richardson

UPDATE ON COVID-19 EMERGENCY LEGISLATION

Jay informed the Board that the State legislative body passed a series of economic relief bills which will go in to effect early next year. One bill creates a Small Business Relief Program. \$37 million is available to certain restaurants who have suffered at least a 20% reduction in profits during COVID. It is a one-time payment up to \$7,000. The municipality must be in the red section of the COVID dial and must actively be enforcing the higher requirements in order for a business to receive funding.

Businesses have been asked to provide input on a proposed State 5 Star Certification program. Businesses would have to adhere to a higher set of regulations which would allow for a lower level of restriction. Garfield County believes the program would place a significant burden on the County Public Health Department.

The legislation and 5 Star Certification Program will be discussed at the December 15th work session.

ADJOURNMENT

The December 8, 2020, regular meeting adjourned at 9:00 p.m. The next regularly scheduled meeting will be held virtually on December 22, 2020, at 6:00 p.m.

APPROVED AND ACCEPTED


Dan Richardson, Mayor

ATTEST:


Cathy Derby, Town Clerk