

**MINUTES OF THE REGULAR MEETING OF THE  
FAIRPLAY BOARD OF TRUSTEES  
June 15, 2009**

**CALL TO ORDER REGULAR MEETING OF THE BOARD OF TRUSTEES @ 7:00p.m.**

A 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 and John Deagan. Also in attendance were Town Attorney Lee Phillips, Public Works Director Jeff Goble, Town Administrator/Clerk Tina Darrah and Town Treasurer Donna Murray. Absent from the meeting Trustee Keith Wortman.

**AGENDA ADOPTION**

**Motion #1** by Trustee Johnson, seconded by Trustee Lane, that the agenda be adopted with the following addition of an item under G. Other New Business:

1. *Discussion Regarding Ladies Run Contract.*

Motion carried unanimously. (Trustee Wortman absent.)

**APPROVAL OF MINUTES - Regular Board Meeting May 18, 2009**

**Motion #2** by Trustee Deagan, seconded by Trustee Lane, that the minutes be approved as presented. Motion carried unanimously. (Trustee Wortman absent.)

**APPROVAL OF EXPENDITURES – Approval of bill of various Town Funds**

**Motion #3** by Trustee Deagan, seconded by Trustee Lane, that the expenditures be approved in the amount of \$26,692.92.

Several questions were asked in regards to various bills; however, no changes were requested.

**A roll call vote was taken:** Deagan – yes, Boyce – yes, Lane – yes, Johnson – yes. Motion carried unanimously. (Trustee Wortman absent.)

**CITIZEN COMMENT**

John Madsen offered public comment informing the Board that he had created a flyer and petition against the open pit gold mining operation being proposed adjacent to Fairplay by Boyd Astemborski. He asked for the Board's support, stating that he was meeting with the BLM that Wednesday. It was noted that Trustee Deagan and Town Administrator Darrah would also be meeting with the BLM and Mr. Astemborski on the day. It was agreed that Ms. Darrah would update the Board after that meeting.

Marie Chisholm handed the Board the list of bills from the Fairplay Sanitation District for the months of January – June 2009 and offered public comment urging the Board to seriously consider taking over the Sanitation District, stating that it would be for the benefit of the citizens.

**PRESENTATION – PARK COUNTY LIBRARY**

Vern Seiroe, Architect from Arch11, gave a power point presentation showing the preliminary site and possible building layout to be used for the new library/public offices building on the lot of the current library/old courthouse. He explained that all designs/discussions at this point are preliminary and that this same presentation had been given to the Board of County Commissioners for the first time the previous week.

Trustee Deagan asked several questions in regards to the site selection process and if the County had considered splitting the County Offices and the Library so that the Library could still be built on the site by the Recreation Center. Commissioner Mark Dowaliby was present as a representative of Park County and explained that part of the funding for the building was going to come from Human Services and that

neither building could support itself without the other as one building is less expensive to build than two. He went on to state that he felt the new library would add to the economy and the citizens of South Park deserved a high quality library. He further explained that the County Building Official had given them two more years at the current site as it is not made for a library and is in serious violation of current building codes. Commissioner Dowaliby further stated that if the County is stopped from building the new library/public offices building at the selected site, the available funding that would have gone towards this will most likely be shifted to another project, namely the 911 Center, "take it or leave it".

A lengthy discussion ensued among the Board, Commissioner Dowaliby, Library Director Patty Chapman, Linda Balough and the architects during which the following issues were discussed: whether or not there exists a real need to co-locate the library/public offices; the site selection process in regards to other potential sites, such as, the site behind the new courthouse; the amount of green space being lost on the courthouse lawn; the parking layout; and the need for the old courthouse building to be a viable, usable, yet historically accurate building in the future. It was specifically noted by Ms. Balough that if the library is no longer at the site of the old courthouse that building ceases to be a priority and may no longer be a viable county building. She shared her concerns about this possibility and explained the historical review process that this project will entail to keep the historical value of the property while creating this new structure.

It was noted by the architects that the next plans, showing the buildings, would not be done before the next Board meeting and that the plans would need to go the BOCC first, but that as soon as possible they would be presented to the Board.

**Motion #4** by Trustee Deagan, seconded by Trustee Johnson, that the agenda be amended to move item 11.A., titled, "Should the Board Approve Adoption of Ordinance No. 1, series of 2009, entitled, "An Ordinance of the Board of Trustees of the Town of Fairplay, Colorado Placing a Moratorium on the Issuance of Building Permits for Construction on the Un-Zoned Parcels Located within the Town."?", to be considered at that time. Motion carried unanimously. (Trustee Wortman absent.)

Should the Board Approve Adoption of Ordinance No. 1, series of 2009, entitled, "An Ordinance of the Board of Trustees of the Town of Fairplay, Colorado Placing a Moratorium on the Issuance of Building Permits for Construction on the Un-Zoned Parcels Located within the Town."?

Trustee Deagan explained that he had asked the Town Attorney to prepare this document upon discovery that certain parcels of land in Fairplay may not be zoned. He explained that according to the zoning map, those parcels within the "Historic Overlay Zone District" do not appear to have an underlying zone district, allowing practically any use in the zoning code to be placed upon them. It was noted that the current Library site and the site of the proposed new library is on a site such as this, with no underlying zone district.

Town Attorney Phillips explained that he has recused himself from this item as Park County is also his client and that he has asked former Town Attorney, Chuck Pisano to handle this matter for the Town of Fairplay. Mr. Pisano asked that this item be tabled to allow him time to research moratoriums and the legality surrounding this issue.

Staff comment was offered by Town Administrator/Clerk Darrah asking the Board to reconsider this item and that rather than the Town placing a moratorium on building permits on un-zoned parcels in Fairplay, that the County be allowed to apply for a rezoning of the affected property at the same time as they are proceeding with the architectural plans for the library/public offices. The Board agreed that this was an acceptable solution.

**Motion #5** by Trustee Johnson, seconded by Trustee Lane, that the Board should approve adoption of Ordinance No. 1, series of 2009, entitled, "**An Ordinance of the Board of Trustees of the Town of Fairplay, Colorado Placing a Moratorium on the Issuance of Building Permits for Construction on the Un-Zoned Parcels Located within the Town.**" Motion did not carry with zero ayes and four nays. (Trustee Wortman absent.)

**PUBLIC HEARINGS:**

Should the Board Approve Adoption of Resolution No. 8, entitled, "A Resolution of the Board of Trustees for the Town of Fairplay, Colorado Approving a Special Use Permit Request to allow a Child Day Care Home at 495 Eighth Street in Fairplay, as applied for by Marlene Northrop."?

Mayor Boyce opened the public hearing at 8:35 p.m. and read a brief opening statement stating jurisdiction and outlining procedures for the public hearing. He then asked for the applicant's testimony which was offered by Marlene Northrop explaining that she wanted to open a child day care in the home that she is renting at 495 8<sup>th</sup> Street in Fairplay. It was noted by staff 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. Ms. Darrah further noted that no remonstrance's had been filed at Town Hall and explained that the Planning Commission had reviewed the application and offered a recommendation of approval.

Mayor Boyce asked for public comment in favor of the special use permit being granted. Public comment in favor of the applicant was offered by Maria Simms, Rachel Edwards and Marie Chisholm.

Mayor Boyce asked for public comment in opposition to the special use permit being granted. None offered.

Mayor Boyce closed the public hearing at 8:40 p.m.

**Motion #6** by Mayor Boyce, seconded by Trustee Deagan, that the Board should approve adoption of Resolution No. 8, entitled, "**A Resolution of the Board of Trustees for the Town of Fairplay, Colorado approving a Special Use Permit Request to allow a Child Day Care Home at 495 Eighth Street in Fairplay, as applied for by Marlene Northrop.**" with the following amendments:

- 1) Condition "a" be changed to read: "Pursuant to Sec. 16-25-10(a) of the Fairplay Municipal Code the Board determines that this Special Use Permit shall end upon the termination of Marlene Northrop's lease of the property."
- 2) Condition "b" be added to read: "That Marlene Northrop maintain all necessary licenses and apply with all applicable laws regarding child day care."

Motion carried unanimously. (Trustee Wortman absent.)

Should the Board Approve Adoption of Resolution No. 9, entitled, "A Resolution of the Board of Trustees for the Town of Fairplay, Colorado Approving a Special Use Permit Request to allow a Transmission Line to be placed at 1507 County Road 16, Fairplay, as applied for by IREA."?

Mayor Boyce opened the public hearing at 8:45 p.m. and read a brief opening statement stating jurisdiction and outlining procedures for the public hearing. He then asked for the applicant's testimony. A power point presentation was delivered by representatives for the applicant, IREA, showing the requested placement of the transmission line and outlining the project in detail.

It was noted by staff 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. Ms. Darrah further noted that no remonstrance's had been filed at Town Hall and explained that the Planning Commission had reviewed the application and offered a recommendation of approval.

Mayor Boyce asked for public comment in favor of the special use permit being granted. Public comment in favor of the applicant was offered by Rachel Edwards on behalf of the Fairplay Sanitation District.

Mayor Boyce asked for public comment in opposition to the special use permit being granted. None offered.

Mayor Boyce closed the public hearing at 9:01 p.m.

Discussion ensued among the applicant and the Board and centered on placement of the poles, the feed, the lines and the service area of the lines.

**Motion #7** by Mayor Boyce, seconded by Trustee Johnson, that the Board approve adoption of Resolution No. 9, entitled, “**A Resolution of the Board of Trustees for the Town of Fairplay, Colorado Approving a Special Use Permit Request to allow a Transmission Line to be placed at 1507 County Road 16, Fairplay, as applied for by IREA.**” with the conditions to read as:

1. *The application of a Special Use Permit for the Property described above is hereby granted subject to the following condition(s):*
  - a. *Pursuant to Sec. 16-25-10(a) of the Fairplay Municipal Code the Board determines that this Special Use Permit SHALL run with the land.*
  - b. *That the applicant, upon completion of this project, agrees to take all necessary steps to abandon/release the easement currently held on the site known as the “Fairplay Cemetery”.*

**Motion #8** by Mayor Boyce, seconded by Trustee Johnson, that the Board go into executive session at 9:15 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. (Trustee Wortman absent.)

Mayor Boyce announced that the meeting was back to open session at 9:31p.m. The participants in the executive session were: Mayor Boyce, Trustees Johnson, Deagan and Lane, Town Administrator/Clerk Tina Darrah and Town Attorney Lee Philips. Mayor Boyce announced that no action was taken in the executive session.

A statement was offered by the attorney representing IREA clarifying several points with the Board. Those were: 1) soil has been tested on the south side of the sanitation district property and was determined to be “inadequate” soil that would not support this type of load; 2) the sanitation district did not want the line placed on the north side by the CDOT property due to expansion possibilities, and 3) if the line was placed in a location that IREA had to build a right angle, it would create the need for a huge structure that would be over 100’ tall and twice as wide.

Mayor Boyce called for a roll call vote on **Motion #7** as stated above. Deagan – yes, Lane – yes, Johnson – no, Boyce – no. Motion did not carry. (Trustee Wortman absent.)

### **UNFINISHED BUSINESS**

#### Discussion/Action Regarding Boilers at Town Hall – Public Works Director Goble

Staff comment was offered by Public Works Director Goble explaining that per the Boards request at the last meeting, he had solicited bids from various plumbing contractors for repair and/or placement of the Town’s boiler system. He explained that he had reviewed the bids and recommended that the Board award the bid to ASP Services/Wilson Plumbing to repair, not replace, the system. He explained that the bid was for an amount not to exceed \$8,500.

**Motion #9** by Trustee Deagan, seconded by Trustee Lane, that the Board approve the bid from Wilson Plumbing in an amount not to exceed \$8,500 for the boilers at Town Hall to be prepared.

**A roll call vote was taken:** Deagan – yes, Boyce – yes, Lane – yes, Johnson – yes. Motion carried unanimously. (Trustee Wortman absent.)

#### Other Pending Matters

No other pending matters.

### **NEW BUSINESS**

Should the Board Approve Adoption of Resolution No. 10, series of 2009, entitled, “A Resolution of the Board of Trustees for the Town of Fairplay, Colorado, Adopting a Three-Mile Plan for the Town of Fairplay.”?

**Motion #10** by Mayor Boyce, seconded by Trustee Lane, that the Board approve adoption of Resolution No. 10, series of 2009, entitled, “**A Resolution of the Board of Trustees for the Town of Fairplay, Colorado, Adopting a Three-Mile Plan for the Town of Fairplay.**” Motion carried unanimously.

(Trustee Wortman absent.)

Should the Board Approve Adoption of Resolution No.11, series of 2009, entitled, "A Resolution of the Board of Trustees for the Town of Fairplay, Colorado, Authorizing the Execution of a Contract with Johnson, Holscher and Company, P.C. for Audit Services."?

**Motion #11** by Mayor Boyce, seconded by Trustee Lane, that the Board approve adoption of Resolution No.11, series of 2009, entitled, "**A Resolution of the Board of Trustees for the Town of Fairplay, Colorado, Authorizing the Execution of a Contract with Johnson, Holscher and Company, P.C. for Audit Services.**"

**A roll call vote was taken:** Deagan – yes, Boyce – yes, Lane – yes, Johnson – yes. Motion carried unanimously. (Trustee Wortman absent.)

Discussion Regarding Request from Park County Fair for a Fee Waiver for a Banner Permit

**Motion #12** by Trustee Deagan, seconded by Trustee Lane, that the Board approve waiving the \$50.00 fee for a Banner Permit as requested by the Park County Fair. Motion did not carry. (Trustee Wortman absent.)

Discussion Regarding Beautification Project – Maria Simms of Vision 20/20

Comment was offered by Maria Simms of Vision 20/20 explaining that she and her organization are interested in helping facilitate beautification projects for Fairplay. She explained that she had been in contact with Public Works Director Goble and the Fairplay Foundation in regards to hanging planters from the banner poles on Main Street. She noted that the banner poles are not strong enough to support the weight of a hanging basket, but that much of the cost for upgrading the banner poles and purchasing the hanging baskets would be borne by outside organizations but that some funding from the Town may be necessary. Mr. Goble noted that he had agreed to try and find \$700 (7 of the upgraded brackets at \$100 each) in his budget to contribute. At that point Trustee Lane and Town Attorney Phillips both offered to pay for one of the brackets at \$100 each.

**Motion #13** by Mayor Boyce, seconded by Trustee Deagan, that the Board authorize the purchase of plant hangers/brackets in an amount not to exceed \$500.00.

**A roll call vote was taken:** Deagan – yes, Boyce – yes, Lane – yes, Johnson – yes. Motion carried unanimously. (Trustee Wortman absent.)

Ms. Simms asked the Town Board if they had an interest in her trying to coordinate various town organizations in a collaborative beautification process that the Town would be involved in. The Board agreed that they were interested in this and stated that they would discuss this item during the budget process.

Discussion Regarding Request from Fairplay Foundation for Donation for Fireworks

**Motion #14** by Trustee Lane, seconded by Trustee Deagan, that the Board grant the request as presented by the Fairplay Foundation for \$5,000 to be spent on Fireworks for the Fourth of July Celebration event.

**A roll call vote was taken:** Deagan – yes, Boyce – yes, Lane – yes, Johnson – yes. Motion carried unanimously. (Trustee Wortman absent.)

Other New Business

Staff comment was offered by Town Administrator/Clerk Darrah stating that she had been contacted by the Ladies Run event coordinator, Rose Kelly, asking for the contract for the 2009 event. Ms. Darrah explained that Ms. Kelly did not think it had been approved for 2009 yet. Ms. Darrah stated that she had looked for a completed contract for 2009 and was unable to locate one so she took last years and used it as the template for the 2009 contract as presented. She noted that this was before them tonight as their next regularly scheduled meeting is only days before the event. Ms. Darrah further noted that the contract had been reviewed by the Public Works Director and that no issues had been identified.

It was noted by Trustees Lane and Johnson that they thought there had been changes made to this year's agreement and that it had been approved earlier in the year.

**Motion #15** by Trustee Lane, that the Board should approve the contract with Ladies Run for the 2009 event. Motion died for lack of a second.

Town Attorney Phillips stated that he had some discomfort with this being on the agenda and asked the Board if they would consider a special meeting to discuss this later in the week.

**Motion #16** by Trustee Lane, seconded by Mayor Boyce, that the Board schedule a special meeting for Thursday, June 18, 2009 at 6:30 p.m. at the Fairplay Town Hall and directing the Clerk to place this item on the agenda for said meeting. Motion carried unanimously. (Trustee Wortman absent.)

COMMITTEE/STAFF REPORTS

Public Works Director Goble offered a verbal staff report informing the Board that he did not receive the grant he had recently applied for and that he planned to meet with Ms. Darrah and Mr. Phillips to discuss alternate funding sources. He reported that Town Clean-up was going extremely well and they had gone through two roll-offs and had another arriving the next day and that wood is being burned and scrap metal is being taken to Denver.

Town Treasurer Murray gave the Board a memo in regards to water billing and meter reading and offered to answer any questions.

Town Administrator/Clerk Darrah gave the Board a brief update in regards to the Astemborski mine proposal, explaining that no permits had been applied for at that point and further explaining the permitting process as it had been stated by David Bird of the Division of Mining and Reclamation Services, including the requirement for public notification and hearings.

ADJOURNMENT

Mayor Boyce, noting that there being no further business before the Board, declared that the meeting be adjourned at 10:18 p.m.

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Fred Boyce, Mayor

ATTEST:

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Tina Darrah, Town Clerk