

Town of Marble  
Minutes of the Regular Meeting of the Board of Trustees  
December 6, 2018 7:00 P.M.

A. Call to order & roll call of the Regular Meeting of the Board of Trustees – The meeting was called to order by Mayor Ryan Vinciguerra at 7:05 p.m. Present: Ryan Vinciguerra, Charlie Manus, Larry Good, Emma Bielski, Tim Hunter (7:25 p.m.) Also present: Ron Leach, Town Administrator and Terry Langley, minutes. Attending by phone: Kendall Burgemeister, Town Attorney.

C. Mayor's Comments (note – items on the agenda were taken out of order)

- a. Ryan wished everyone a belated Happy Thanksgiving and thanked all who made the Thanksgiving feast a success.
- b. Ryan stated that, under New Business, Bart Waller would be moved up on the agenda.

G. New Business

a. Other - Bart Waller reported on the possibility of broadband coming to Marble. He said that he had been in contact with Kara Silvernagle in Pitkin County who told him that Holy Cross (HC) is looking at a fiber system. He then contacted Bob Farmer, VP for IT at Holy Cross. They need to get fiber into many areas for their own operations. Marble will be first on the list if they do decide to put fiber in. This means we may have broadband internet within a year or two. He is asking the board to provide a letter to HC in support of this effort and affirming our desire and willingness to work with them. They will have to go through a right of way process to add fiber to the existing poles. The CO legislature is working on perfecting the right of way and bundling it with the right of way in place for power lines. John Rutland is currently working with Bart. Additionally, Bart would like to put together a small committee to work on this with HC. Mr. Farmer will be presenting to the HC board meeting in February.

B. Approve previous minutes – Larry asked for some clarification on his remarks regarding the court system. He said that while personally he did not like the need for a court system, publicly he sees that the town needs it and he supports it because: 1. People take advantage of the situation knowing that there is no enforcement, 2. Trustees are pulled inappropriately into disputes, and 3. The lack is a stumbling block to moving forward on many issues. Charlie Manus made a motion to approve the minutes as corrected. Larry Good seconded and the motion passed unanimously.

D. Clerk Report

a. Current bills payable 12/6/18, Ron – Ryan asked about the bill from Redi Services for port-a-potties for MarbleFest (MF) and if this was an additional bill or if it was included in the funds given by the town for MF. If not, had it been requested by Richard Wells. Ron will check with Richard. Emma Bielski asked if there had been an itemized budget from MarbleFest. Ryan said that Richard had sent an informal list and has been asked for a more detailed budget in the future. Larry Good made a motion to pay the bills as presented. Charlie Manus seconded and the motion passed unanimously.

b. Public Hearing – Larry Good made a motion to open the 2019 budget hearing. Emma Bielski seconded and the motion passed unanimously. The public hearing was opened at 7:40 p.m.

i. Discussion, letter from Colorado Water Commissioner Jake DeWolfe regarding Marble Water Wells out of Priority – Ron explained that this is part of the public hearing because there is a budget implication to the letter from Jake. The town acquired junior water rights in 1975. This summer, a call was put on the water by those who have senior water rights (Jessup ditch). Those with junior water rights had to use their augmentation plans. Marble does not have one. An augmentation plan would typically be a body of water with an outflow that could be opened into the Crystal River to satisfy a call. Other subdivisions were also asked to develop a plan. Ron feels that the first thing to do is to reach out to the Marble Water Company (MWC) and have them come to a meeting. The town owns the water rights, MWC owns the delivery system. Second, we need to engage a water resource engineer and a water attorney (Kendall). Ron recommends Zancanella & Associates out of Glenwood Springs because they are familiar with the Marble water issues. Ron recommends adding a line item to the budget to cover the costs of an engineer and attorney and suggests \$30,000. Kendall Burgemeister agreed that engineering and legal fees would be needed for 2019 but because some of the 2018 legal fees were one-time-only expenses, he suggests adding \$5000 to the 2019 legal budget. Larry asked if a future call on the water could mean turning off the MWC wells. Kendall said that yes, this could happen. The Water commission said that as long as the town is making good-faith effort to create an augmentation plan, they would try to be lenient. Without the effort, there is a possibility that they would shut the water off completely. Larry asked if there was an estimate of what an engineering fee might be. Kendall guesses \$20-25,000. Ryan said that Zancanella said \$5000 would be a place to start. Ryan said that this takes priority over the Plan B water issues. Emma asked about the conflict was between the town & the MWC. Tap holders have paid a tap fee to the town and the town pays the MWC to pay down a bond. It was felt that communication is the basic problem. Ryan feels that MWC is mismanaged and is hard to work with. Ryan proposed a budget of 5000 for engineering and 5000 for legal issues to begin working on an augmentation plan. Discussion on where to find those funds followed. Ryan said that the lease with Slow Groovin' (SG) would be a source of revenue. He noted that the survey done originally was larger than the land mass asked for by SG and so the lease has been on hold. He estimates \$2000 (\$1.50 per square foot) per year. Additionally, projected expenses listed in the Park Fund and the General Fund might be a double expense

ii. Written budget objections, Steve Lucht – Steve said that eliminating the court system is a problem for him. He filed his objection because he has to file an objection with the town before he files one with the state. An ordinance was passed in 2008 and a court system has been a line item for many years. Having a court system is a legal requirement by state statute. Kendall explained that the state statute says that towns must have a court system to enforce ordinances. No court means that there can be no enforcement but a court system is not required in and of itself. Not having enforcement and a court system is an intentional decision. Steve Lucht disagrees for the record. He feels that if there is a state statute that the board does not follow, the board can be held accountable and, under certain circumstances, may have to pay restitution. He called attention to Colorado revised statutes 21 2016 Title 18 Criminal Code Article 8 Offenses, Governmental Operations, Abuse of Public Office, 18-8-404 First degree official misconduct, indicating that the lack of the court system allows public officials to benefit.

iii. Public Comments – Amber McMahon asked that a line item be added for an audit for the Hub. Ryan said that he thought the revenue from the parking and campground should cover that cost. Ron said that the town pays approximately \$7000 for their audit and he estimates 2000-5000 for the Hub. Amber doesn't want to wait on next year's income to have the audit done. She wants to get an audit for the past two years. Ron suggests getting some bids for concrete numbers. This will be revisited in January.

iv. Board Member Comments – Charlie asked for some more discussion on the water issue. Tim feels that there need to be some more cuts made. He feels that street improvements and MarbleFest could be cut for a year. He would like to see an executive session called to do more work on the budget. He would like to put the court system back into the budget and more discussion on the water augmentation plan. Ron explained that deadlines are for certification of the mill levy, Dec. 15 and for the budget to be sent to the state, Jan. 31. Kendall explained that executive sessions can be called for specific reasons, including legal advice but that the budget is appropriate for a public hearing. Mike Yellico suggested cutting the road maintenance to just include mag chloride and funding MF can be handled through other means. Ron explained that the budget does not obligate the town to spend the money and does not preclude the town from getting into other issues. It is an estimate of spending and revenue. Discussion of possible cuts followed. It was agreed to cut \$5000 from street maintenance, cut recycling by \$1000, drop MF completely, cutting \$4000, and to cut earth day by \$2000. Discussion of where to move the amount cut (\$12,000) followed. It was agreed to put \$6000 toward water augmentation costs and to leave \$6000 in the general fund.

v. Consider adoption of 2019 budget Ordinances # 2018-7 and 2018-9, Ron – Larry Good made the motion to adopt Ordinances 2018-7 and 2018-9 as amended during discussion. Tim Hunter seconded and the motion passed unanimously. Larry Good made a motion to close the public hearing. Charlie Manus seconded and the motion passed unanimously. The hearing closed at 8:55 p.m.

vi. Consider adoption of 2018 supplemental budget Ordinance # 2018-8 – Larry Good made a motion to open the public hearing. Charlie Manus seconded and the motion passed unanimously. The public hearing opened at 9:00 p.m. Ron explained if we overspend the overall budgeted amount without doing a supplemental budget, we are in violation of state statutes. General fund expenditures are estimated to be over \$27,333.00, revenues over \$8869.00 This is a conservative estimate that will cover December expenditures and revenues. Larry Good made a motion to adopt Ordinance 2018-8. Emma Bielski seconded and the motion passed unanimously. Larry Good made a motion to close the public hearing. Charlie Manus seconded, the motion passed unanimously and the public hearing closed at 9:05 p.m.

c. Consider approval of 2019 plow agreement with Gunnison County, Ron – This is a yearly agreement that allows Robert to plow town streets as needed. Tim Hunter made the motion to approve the agreement, Charlie Manus seconded and the motion passed unanimously.

d. Other

#### E. Current Land Use Issues

a. Diane Ahlstrom application for building permit, Ron. Ron introduced Diane and Aaron Ahlstrom and gave a brief summary of their property at 307 Hill St. (0.18 acres) in Marble. About 19 years ago, the structure on the property burned down. Jeff Bier owned the property at the time, wanted to re-build the structure and said he was given approval of the board to re-build. He subsequently sold the property to Yvo. Jeff says the Town of Marble issued Yvo a building permit for the lot. Yvo subsequently lost the lot to the bank who sold it to the Ahlstroms. Aaron says the lot is grandfathered in and has recently spoken to a bank who needs a letter from the TOM that says Ahlstrom will be able to build a house on the lot. Aaron cited the December 2016 TOM minutes in which he feels the Town gave approval to build on the lot. Aaron said he would pursue legal action if need be. Aaron said the only issue is the neighbors well. Aaron has been in touch with Paul Rutledge who has done some preliminary design work on an OWTS for the site and has assured Aaron that a new conforming OWTS can be installed in the northwest corner of the lot and be out of the 100 foot radius requirement from the closest well. Aaron presented a handout to the board at this time from Sopris Engineering. The closest well is located on Tom Russell's property next door to the Ahlstrom property. Paul needs to confirm the location of the Russell well before he can give final approval of the design. Aaron said the utilities are in place with a MWC water tap. Aaron stated he bought the lot with the understanding that it was a developable lot. Aaron said he is not looking for final approval tonight and will bring any needed paper work if that is needed.

Ryan suggested Aaron review all the town's land use ordinances and asked Aaron if he had any documentation supporting his request for a letter of approval by the Town of Marble. Ryan reminded Aaron that the board was only taking in information tonight and requesting additional documentation. Ryan asked about the size of the lot and advised that the current OWTS regulation requires 20,000 square feet (8 lots) for a new system. Ryan asked Aaron to get with Ron for copies of all applicable codes and ordinances.

Larry stated that without complete required information from the applicant the board cannot give a letter of support for any building projects. It is simply not what this town does.

Tom Russell said there is no such thing as a grandfathered in clause for OWTS in the TOM ordinances. Tom stated it is a health and safety concern and Aaron's plans cannot comply with TOM building or OWTS codes. Tom also noted there had been no improvements to the lot in 18 years and it is overgrown.

Mike Yellico noted that the lot is within the Wright Water Survey Red Zone Map.

#### F. Old Business

a. Lead King Loop Committee up-date, Ron – Ron explained the history of forming the committee which includes the Town, the county, the Forest Service, law enforcement and CPW. In the past month we have had two conference calls. Shelly Grail, from the Forest Service, explained the procedure if they are the agency to restrict access. He and Marlene, from the county, are working on ideas for either the town or the county being the restricting agency as well as documenting the impacts

of the increased use of the LKL. They will also be documenting possible solutions. Monthly conference calls will follow.

b. Continued discussion of Adopting Paid Parking Plan, Ryan

i. Discussion of SBA deed restrictions at Mill Site Park, Ryan – Kendall has been in communication with the SBA. They have received his communication and we are waiting for their response.

c. Other

G. New Business

a. Other - Bart Waller spoke earlier and the minutes are above.

b, Amber McMahill asked about the possibility of using the unused portion of the Old General store as a tourist education/campground office, etc. Ron said that in considering this the first concern is septic system, which would have to go under the road to the campground. The structure would need to be inspected and cost estimates would need to be obtained.

H. Other

a. Alex Menard presented the idea of becoming a dark community. He explained the rationale and procedures. As far as light pollution, we are a 2, which is low. There are no 1s. There is only one other dark community in the western U.S. (Westcliffe). Two areas that would need to be addressed are the street light on the bridge (needs to be shielded so that light does not go up) and the county building security light. He presented the Westcliffe ordinance. Board will review the information and put this on a future agenda. Alex asked about work being done up there and was told someone is building a house on Sheep Mountain. Signage identifying passing areas and prohibiting parking can be put up in the near future.

I. Adjourn – Larry Good made a motion to adjourn, Charlie Manus seconded and the motion passed unanimously. The meeting was adjourned at 10:03 p.m.

Respectfully submitted,

Terry Langley