

Minutes of the Town of Marble Regular Meeting of the Board of Trustees

June 7 2018

A. Call to order & roll call of the Regular Meeting of the Board of Trustees – Mayor Ryan Vinciguerra called the meeting to order at 7:06 p.m. Present: Tim Hunter, Ryan Vinciguerra, Larry Good, Max Gibbons and Mike Yellico. Also present: Ron Leach, Town Clerk, Kendall Bergemeister, Town Attorney, and Terry Langley, minutes.

B. Approve previous minutes – Mike Yellico made a motion to approve the May 3 minutes. Tim Hunter seconded and the motion passed with Larry Good abstaining since he did not attend that meeting.

C. Mayor's Comments

a. Ryan began by thanking the quarry for watering the streets and helping to keep the dust down. He also thanked Tim Hunter and Mike Yellico for installing the speed bumps.

Mag Chloride will be put down on Main Street as soon as possible. Tim asked that 3rd & 4th streets and Main Street to Slate Drive be added, as well as East 3rd Street to Hill Street. Ron Leach said that he thought it could all be done in conjunction with the county's application.

Ryan also said that the Marble Charter School graduation was a wonderful event and he encouraged everyone to go next year.

D. Clerk Report

a. Current bills payable 6/7/18, Ron – Ron said that bills to approved for payment tonight are in the packet with additional bills that came in after the packet was created listed on the spread sheet. Income from reservations at the campground total \$24,000 to date. Ryan called attention to the donation to the coal mine memorial approved last month and to the water company payment. Tim said that the Earth Day dumpsters were \$406.25 over budget due to an increase in dump fees but all agreed that it was worth the extra cost. Max Gibbons moved that the bills be paid as listed. Larry Good seconded and the motion passed unanimously.

b. Consider approval of Aspen Valley Land Trust (AVLT) Thompson Park Memorandum of Understanding (MOU), Erin Quinn – Ron said that the AVLT asked to postpone this until July but that it was still on the agenda so that the board could discuss some if the issues connected with the MOU. Ron asked if the board wanted an indemnity clause included in the MOU or if they wanted to go with Kendall's recommendation and not include an indemnity clause.

Kendall said that the indemnity clause is probably without meaning and so void in the local government budget law. By including an indemnity clause it may be in violation of the law and could be considered malfeasance. It creates liability. The clause as originally written includes anyone who uses the park with permission (essentially everyone). They indicate that they are willing to modify the language but they have not responded to Kendall's latest suggestion which does not commit the town to language that may violate the law.

Ryan asked if the school has an indemnity clause with their MOU but Kendall does not know. Tim said that the school has a separate MOU. He questioned Part C that says the town will pay for all upgrades and upkeep and additionally requires a licensing fee for special events be paid to AVLT. He would like clarification of Part C. Mike would rather not have any indemnity clause. Larry asked Ron to see how far we can go with changing some of the language. He asked that the Part C language be softened to stating the AVLT should approach the town if they want to require a license for an event.

Ryan explained that the school has their own MOU that will cover most special events (for example: Lead King Loop) held in the park. Ryan suggested waiting until AVL T responds to Kendall's suggestions and Kendall would like to see what the MOU with the school contains. Richard Wells said that the land would be a park forever and that the town needs to work with the other two entities. The jail is not part of the park. Larry asked if we had insurance for the jail and Kendall said it is covered by the town's general insurance.

c. Discuss application for Variance from Gary Hubbell, Kendall – Gary Hubbell owns .75 acre, more or less, that he would like to sell. The potential buyer, Patrick Fagan, met with Ron Leach to ask about the feasibility of putting in a septic system on the property. Ron explained that he thought that one acre was required for a septic system but that Mr. Fagan should check with Mr. Hubbell to see if he has information that Ron does not. Mr. Hubbell stated that he does not think the property is subject to the one-acre requirement so Ron asked Kendall to research this. Gary has asked if the town would entertain an application for a variance. Kendall explained that there are two separate issues. First, the parcels were originally platted as building lots for the old ski project. In 2007 parcels were reconfigured and the parcel under consideration was $\frac{3}{4}$ acre. The question is, is it buildable and is it subject to the one-acre requirement and he can find no definitive information. Gary explained his position and why he felt he should be able to put in the septic system as well as his process and understanding in creating the lot. He had previously sold it but had to foreclose on the property and he and Mrs. Hubbell had worked to clean up the lot.

Larry Good said that the town has to follow the letter of the law as it stands today and they want to avoid mistakes that were made in the past. Max Gibbons asked what was required in a variance request. Kendall explained that it has to include the OWTS requirements, including some initial soil reports. He also explained that there is a difference between having a legal lot and having a lot that qualifies for a septic permit. The OWTS does include variance requirements. He suggests conferring with Paul Rutledge. Charlie Manus stated that they had to buy 3 lots to have an acre to build and he asked that the board be fair. Glenn Smith said that there is a precedent that dates back to Karen Mulholland. He stated that back in 2008 or 2009, his property was deemed to be buildable because it was part of the old filing. Ryan asked if Mr. Hubbell's original intent was to have a buildable lot and he said that it was. He asked that the board vote on requiring him to get a septic permit before they will consider granting a variance. Mike explained that this was a Regulation 43 requirement and the town is bound by the law. Kendall agreed with Mike and clarified that the Regulation 43 requirement does not have minimum lot size requirements – these have been set by Gunnison county and the town. This has been the code for the last 20 years. He said that OWTS is one of the hot button issues in the town and they have to be consistent. At this point the discussion ended and no further action will be taken until (if) Mr. Hubbell makes a formal request for a variance.

d. Consider approval resolution #3-2018 reappointment of town clerk & town attorney, Ryan – Ryan explained that they had met in executive session concerning contracts for Ron and Kendall. They would like to make Ron a full time Town Administrator at a salary of \$3200.00 per month. Mike moved to approve the resolution, Larry seconded and the motion passed unanimously. Ron asked for a modest pay increase for the other town employees: Terry Langley, Jim Aarts, Charlie Manus & Jennie Curtright in the amounts of \$1.00 per hour for Terry, Jim to \$250 per week and 4% for Charlie & Jenny who are

paid monthly. Max Gibbons made a motion to approve raises in the amounts listed, Larry Good seconded and the motion was approved unanimously.

e. Consider stage 1 fire restrictions, Ron – Ron explained that western Colorado is in serious drought and high fire danger. Entities including the BLM, US Forest Service, Gunnison, Pitkin, Garfield counties have all initiated fire restrictions. As a town, we are not covered by Gunnison’s restrictions as they are for unincorporated areas. He would like to institute a burn ban similar to Gunnison County’s and asks that people of the town help with reporting any violations. Larry asked if this was as thorough and inclusive as Ron would like. Mike asked what to do about the “maniacs” who violate on 4th of July. Tim reported that he had talked to a water engineer who said that fuel moisture sensors show that moisture levels are down to 12% - the lowest since 15% in 1997. Tim found an unattended burning camp fire up on Sheep Mountain. He asked for everyone to be vigilant and to report violations. Gary Bascom suggested putting up banners as had been done in the past. Connie Hendrix asked if the fire department can still call for slurry drops. Ron said that yes, this can and will be done if necessary. Tim explained that there are fire bases close by – Rifle, Grand Junction and the Front Range. Connie requested meeting with the whole community to discuss procedures. Richard Wells asked if this includes charcoal grills. Mike read the proposed resolution. Questions regarding enforcement followed. Larry Good moved that this resolution be adopted, with the addition of banning all campfires. Mike Yellico seconded. The motion passed unanimously. Connie asked about ways to communicate the ban and these will include signs, web site, newspaper, and possibly electric signs from the county. The ordinance is attached below.

Mike asked about the legality of drones – he has recently had three fly over his property. He wants to know if he can legally shoot them down or capture them by shooting a net and was told by the sheriff that he cannot.

E. Current Land Use Issues

a. Discussion of remodel project @ Park St. & West 2nd. St., Ron – Ron compliments Brian Sutter on his improvements on the property. Brian has applied for a business license and a building permit and Ron appreciates his cooperation with this. Ron has been inspecting the property as work has progressed.

F. Old Business

a. Set public hearing to consider approval of up-dated Marble OWTS regulations, Ron – Kendall explained that regulation 43 is the state regulation. This can be adopted as written but if it is modified by the town, it has to be as strict or stricter than the state’s. Marble has a few items specific to the town that have been included in the previous regulation. A draft regulation document has been developed that includes these items and they will be discussed at the public hearing. The draft regulations have been submitted to the state but the state has not yet commented. Ron proposed a public hearing be held June 28, 2018 at 7 p.m. Larry moved to hold a public hearing on that date. Mike Yellico seconded and the motion passed unanimously. Kendall explained that these, if adopted, become effective 40 days after said adoption. Any applications submitted before the regulations become effective fall under the old regulations.

b. Discussion of traffic and parking issues in Marble, Amber – Amber said that the parking issue is bigger than the Town of Marble. She reminded the board that the county commissioners had agreed

to sit down with Marble and the CPW to work on this issue. Larry said that the commissioners had suggested a committee but he feels that there is work that needs to be done prior to that. Speed bumps and additional parking beyond the fire station are examples of what has been done. In addition to stake holders, we need people who can do something about the problem. Ron suggested retaining Mark Chain who has considerable experience in this and is willing to spearhead this effort. Larry Good made a motion to retain Mark Chain. Mike Yellico seconded and the motion passed unanimously. Richard Wells said he would give the board the information about where parking for special events has been provided and/or planned for.

G. New Business

a. Consider funding movies in the park, summer 2018, Amber – The Hub is hoping to host four movies – the 3rd Thursday of every month. These include *Jumanji* (the new one), *RV* starring Robin Williams, the Disney movie, *CoCo* and, in Sept. on the night before the loop, *McFarland USA*. Licensing is about \$800 for all four. She is asking for these funds from the \$5000 approved for town events. Discussion of the need for a screen followed. Mike suggested waiting on a screen until seeing how the movies are attended. Larry Good made a motion to provide \$800 for movies in the park. Mike Yellico seconded and the motion passed unanimously.

b. Discussion of church parking plan on Main St. - Ron said that Pastor Stovall had asked Ron to see if the town had any objections to the church developing their lot across the street for parking. There were no objections raised.

c. Other – Connie asked if there would be a pheromone program this year. Ron said that there was no program at this point. Pheromones are available at Planted Earth and on line from ConTech in Canada.

H. Public Comment - none

I. Adjourn – Mike Yellico moved to adjourn the meeting. Larry Good seconded and the motion passed unanimously. The meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Terry Langley

Approved on _____

Signed _____

Ryan Vinciguerra, Mayor

Town of Marble
Ordinance Number 2
Series of 2018

AN EMERGENCY ORDINANCE ADOPTING FIRE RESTRICTIONS

WHEREAS:

A. The Town of Marble (the “Town”) is a statutory town organized pursuant to Colorado Law; C.R.S. §31-1-101 *et seq.*;

B. The Town’s Board of Trustees (“Board”) has determined that, due to extremely dry weather conditions present in the Town and surrounding areas, the danger of forest or grass fires in the Town is high at this time;

C. C.R.S. § 31-15-401(1)(q)(I) authorizes the Town to “control and limit fires, including but not limited to the prohibition, banning, restriction, or other regulation of fires and the designation of places where fires are permitted, restricted, or prohibited.”

D. C.R.S. § 12-28-107 authorizes the Town to regulate the use of fireworks; and

E. Fire restrictions are currently necessary and appropriate throughout the Town to reduce the danger of wildfires;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MARBLE, COLORADO THAT:

1. The following activities are prohibited throughout the Town:
 - i. Open fires, including agricultural burning, wood or charcoal fires, and the burning of trash or debris;
 - ii. Building, maintaining, attending or using a campfire outside of designated, developed campgrounds;
 - iii. Use of fireworks or explosives;
 - iv. Any activity described in Section 2, below, that is conducted outside of the limitations set forth therein.

2. Notwithstanding the foregoing, the following activities are permitted, but only in accordance with the described limitations:
 - i. Smoking outdoors, but only in an enclosed vehicle or building, a developed recreation site or while stopped in an area at least three feet in diameter that is barren and has been cleared of all flammable material.
 - ii. Cooking on manufactured charcoal, liquid fuel and propane grills;

iii. Welding or operating acetylene torches with flame is allowed ONLY in cleared areas of at least 10 feet in diameter and where the operator is in possession of a chemical-pressurized fire extinguisher with a minimum rating of 2A.

iv. Operating a chainsaw is allowed ONLY if the device includes a USDA Forest Service or SAE approved spark arrester, and where the operator is in possession of a chemical-pressurized fire extinguisher with a minimum rating of 2A.

3. Violation of this ordinance shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

4. Emergency Certification. It is hereby found and declared by the Town of Marble that wildfires are likely to result in infliction of serious personal injury or death, and are likely to result in substantial injury or destruction of property within its jurisdiction, and it is necessary that this ordinance become effective immediately. Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

5. This Ordinance shall expire on September 30, 2018 unless sooner expressly repealed or amended by a subsequent Ordinance passed by the Board.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED IN FULL this 7th day of June, 2018, by a vote of 4 in favor and 0 opposed.

TOWN OF MARBLE:

ATTEST:

Ryan Vinciguerra, Mayor

Ron Leach, Clerk