

Town of Marble
Regular Meeting of the Board of Trustees
October 5th, 2023 7:00 P.M.
Marble Community Church, 121 W. State St. Marble, Colorado
Agenda

- A. 7:00 P.M. Call to order & roll call of the regular October meeting of the Board of Trustees
- B. Mayor Comment
 - a. Discussion with Nicole Farrell & Ryan Kenney re: Marble Bank Building transfer of ownership to TOM
- C. Continue Public Hearing to consider approval of Ordinance # _____ approving residential structures in business zone in Town of Marble
- D. Consent Agenda
 - a. Approve September 7th 2023 minutes
 - b. Approve Current Bills, October 5th, 2023
- E. Administrator Report
 - a. Review draft 2024 Budget, Ron
- F. Land Use Issues
 - a. Consider approval of Parker/Collins lot line adjustment, Ryan
 - b. Consider approval of Marble Wetlands Preserve Management Agreement, Ron
- G. Committee Reports
 - a. Discuss Flow chart for municipal governance, Emma
 - b. Up-date on Jailhouse project, Emma
 - c. Parks committee report
- H. Old Business
- I. New Business
 - a. New business license application, Chris Palmer
- J. Adjourn

Town of Marble
Regular Meeting of the Board of Trustees
September 7th, 2023

A. Call to order & roll call of the regular September meeting of the Board of Trustees – The meeting was called to order at 7:06 by Mayor Ryan Vinciguerra. Present: Absent Tony Petrocco, Amber McMahill, Larry Good and Ryan Vinciguerra. Emma Bielski arrived shortly after roll call. Also present: Ron Leach, Town Administrator and Alie Wettstein, Administrative Assistant

B. Mayor Comments -

C. Continue Public Hearing to consider approval of Ordinance #_____ approving residential structures in business zone in Town of Marble – Ryan explained that this would allow residential use on a business zoned property like many of the business properties already do. Residential use would be a use by review. Larry had an issue with the clause about manufactured homes and would like to see that stricken. He feels that a proposal for a manufactured home would normally come before the board for review but feels that this clause that says manufactured home are allowable might take that review from the hands of the board. Ryan thinks the code covers manufactured homes elsewhere and has no problem with removing this from this ordinance. He will check with the attorney about removing this. Tony would like to add some language added that these residential uses would be for affordable, employee housing so that they will continue to be used as such. He suggested using the same guidelines that Aspen and Pitkin County use. He feels that this will eliminate the residential use from becoming VRBOs. Amber said that, as a use by review, they would come before the board for review and approval on a case-by-case basis. Tony explained that this would show the intent of the board and would make things fair. Larry suggested that Tony draft the language he would like to see and have Kendall review it. Ryan would like to stay away from defining affordable housing and getting into income questions but agrees that it should be stipulated as employee housing (owner, manager, staff). Emma agreed and feels that affordable housing is a separate issue that should be explored. Larry would like to see the title amended to allow residential use on a business zoned property. Tony will work on the employee guidelines. Amber spoke to employee housing aspect and would like to allow housing for employees within the town, not just with the business. Mike Evans asked where the employee housing/business zoning boundaries would be. Tony explained that many businesses have apartments within them (Slow Groovin', Marble Gallery, Piffer's building). If another commercial building is built, this ordinance would allow an apartment and it needs to be restricted to housing for employees who work in the town. Ryan explained that the lack of space for new business buildings means that ramifications would be very limited. It would allow existing buildings to come into compliance and would allow for more long-term housing possibilities. Mike spoke to Mario Villalobos's situation and Ryan said this ordinance would allow those type of uses to coexist. Discussion of individual properties and situations followed. Examples cited included Beaver Lake Lodge, Slow Groovin', Piffer's building, Marble Gallery and owner-occupied dwellings that are operating businesses such as SUP Marble and RPS rentals. Tony Petrocco made a motion to close the public hearing. Amber McMahill seconded and the motion passed unanimously.

D. Consent Agenda – Ron explained that c. should be considered separately from the consent agenda and it was considered before the rest of the listed consent agenda.

c. Consider approval of MCS special event liquor permit application for LKL, Karly Anderson – Ron explained that all paper work has been submitted and the request has been duly noticed. Amber asked if this would be operated as in the past. Stephanie Helfenbein explained that this would allow beer sales (keg or cans) to raise more funds for the school. Tony Petrocco made a motion to approve the MCS special event liquor permit application for the Lead King Loop race. Larry Good seconded and the motion passed unanimously.

a. Approve August 3rd 2023 minutes

b. Approve Current Bills, September 7th, 2023

Larry Good made a motion to approve the consent agenda. Emma Bielski seconded and the motion passed unanimously.

E. Administrator Report

a. Review draft 2024 Budget, Ron – Ron explained that the packet contains the 2023 Budget on page 15. He highlighted the total income through August which is close to budget. It a little low as the lion's share of sales tax has not come in. On page 16, total expenses, does include the September bills or 75% of the time. We are at 74.6% - right on target, even including the high snow plow costs for this year.

b. Visionary Broadband Update – Brian Shepherd explained that they got a grant from the state to bring high speed fiber to Marble. He explained some of the delays, including engineering, work with Holy Cross, work with the Forest Service and the state historical office. These have resulted in increased costs of approximately \$500,000 that they are covering. Holy Cross began work on the poles two months ago and VB subcontractors have begun stringing the wire. They are building a 40' tower near the fire station. They are on track to get service by the end of the year, providing weather allows. They hope to begin signing folks up for service in the next week to begin planning for hooking people up. They will get a link on the town website as well on the VB website. Cost of service is three-tiered. Gigabit service: \$99.95, 300 meg: \$69.95 and 100 meg: \$54.95. No data caps and service is symmetrical. There are also federal assistance plans up to \$30 per month for those who qualify. These are all unlimited and VB can help you determine the tier you will need. Dustin Wilkey asked if cell towers would be erected and Brian said that is up to the town. A question about wireless transmission was asked. Brian said it will be around a 3.5 gigahertz frequency and is similar to a cellular network. Homes that cannot get fiber will be able to buy a small transmitter. Discussion about how big a gig actually is followed. Brian said it is a true gig but can be affected by what you do and use within your home. You can buy or rent a router. He explained that throttling happens with older systems but not with theirs. Cost increases will be limited and will only happen if their costs go up - not on any regular schedule. They are working on other grants to expand services further. There are no contracts, it is month-by-month service. The cable can be buried, but that would be at home-owner expense. Ryan spoke to the work that Bart Weller had done to bring broadband to Marble.

c. Discussion with Colorado Parks and Wildlife. Amber met with John Groves last week concerning the changes at Beaver Lake and she invited them to this meeting. She learned that the number of vehicles on the lake are damaging the infrastructure of the man-made lake. The shoreline is

eroding and the wildlife is being affected adversely. Additionally, CPW has been under pressure to return to their mission of protecting wildlife. She came from that meeting with the understanding that they are willing to work with the town on future solutions but for now it is about reducing the numbers quickly.

John explained that they have a regulatory mandate from the CPW commission to manage wildlife areas for wildlife habitat and related conservation and recreation. Other uses can occur until and unless they negatively impact that. They were directed to reign things in the more than 300 wildlife areas state-wide. In July of 2021 they began requiring fishing or hunting license to be on CPW property. They then created a wildlife area access pass for users who did not want to be associated with fishing or hunting. They get no state funding – they are funded by license fees and, in a small-part from GoCo and need to serve those license holders. For years, some activities at Beaver Lake were illegal but were so small that they didn't have an impact. That has changed with increased use. These include swimming, storing boats, boats on the water without fishing. Amber said they discussed future management ideas and how they might work together. John said they are open to listening to options but they will be dictated by regulations or possible changes in regulations. Amber asked about permits and whether CPW would consider pursuing that soon. Any permits would have to adhere to regulations. Costs of management, making permits equitable across the state, etc. will mean this could not be a quick fix. Tony spoke to the traffic and parking problems. John said they are very aware and have had conversations with the county, the sheriff and others. Ryan asked about their enforcement currently. John explained that they are working on education in this first year unless they are dealing with repeat offenders. Licenses can be obtained on-line by going to the Hub. Ryan spoke to the lack of enforcement and the concern that it can result in citizen-to-citizen conflict. John said it may take two to three years to get cooperation. There will come a day where enforcement gets stricter. Emma asked if there were any suggestions as to how SUP Marble can be supported. John said he told the board when SUP was seeking their business license in 2019 that this is not a use for the lake. Jaimie Fisk spoke to the support for stand-up paddle boarding as well as to the fact that there are many other stand-up paddle boarding companies that rent boards and that use Beaver Lake. She spoke to the fact that it is not their small company that is crowding the lake. She addressed the other boating recreational use – kayaking, canoeing, etc. – that use the lake. Fishermen create parking and trash problems as well, including fishing wires and lures that are detrimental to wildlife. She feels they can work together to develop a system that allows citizens of Marble to continue to use and enjoy the lake. She spoke to mental health and exercise benefits. She said there were more people against the regulations according to public comment. She said SUP Marble encourages people to get their fishing licenses. They have a permit to use the river and to use Harvey Gap. They are willing and have offered to get a permit for Beaver Lake. John explained that they are mandated to manage all of their lands for wildlife. There have been other CPW lakes that have had the same regulations put in place. Sam Wilkey asked about the ban on dogs and signage. John explained that dogs have been banned on all state wildlife properties and that they hope to have signs up by Spring. Amber said Matt had spoken about creative management work done in other areas. John said they are open to other ideas. While they don't have to be the entity who owns the lake, they cannot give it away. Richard spoke the intent that, when the lake was given to the Colorado Division of Wildlife, it was to be managed as a wildlife area. John explained that it has been a state wildlife area for more than 60 years. Amber feels that the intent was for use by the community and would like to see continued collaboration on how to use it. Jaimie spoke to using part of the lake for fishing, part for other uses. Ryan spoke to the fact that these regulations are not targeted at Beaver Lake. CPW is trying to make these regulations consistent across the state. Angus asked how they can

access the river without violating the rules. Tony explained that they can use East 2nd street or they can get a fishing license. He spoke to the amount of dogs harassing wildlife, the increased trash and lack of cooperation from users. Jaimie asked if CPW would be doing anything to help the beaver population. John said that there is not a high concern about beavers currently – there is not a shortage. Dustin asked about trapping and John would have to look into trapping regulations.

F. Land Use Issues

a. Consider approval of Ordinance # _____ approving a zoning change for Smith/Wilkey property, Ron - Dustin spoke to the fact that they have been working on this for over a year. They are trying to build their house and because of the town management stand it makes it look like they are wanting to do a big corporation and commercial property. He said that due to the incompetence of town management and the board they are officially withdrawing their application to rezone at this time and they will pursue it later. He said even if this was approved tonight, it would put a stop on their build because there is no residence within a business property. Their financing hinges on this being put off. Amber said the board had warned them about this from the beginning.

b. Consider approval of Parker/Collins lot line adjustment, Ryan – Ron said tentative approval was given at the August meeting, pending completion of the title work, paper work and plat work. The work has been completed with the exception of the attorney’s opinion, in essence the title search. Ron would like to see this completed once that is done. Tony asked, once again, to see the town’s deed for the property to see if there are any conditions on it that won’t show up on the title search. Ron thought that the title search would show any conditions. Tony said that this can be done by going to the county clerk’s office and punching in Town of Marble. Carol Parker has a map from 1915 that shows Carbonate Creek coming down the center. Ryan asked if the title search would show what Tony is looking for. Tony said that many title searches do not show encumbrances and he would like to see the original deed. Approval was tabled.

c. Consider approval of Marble Wetlands Preserve Management Agreement, Ron – The agreement is in the packet and Ron asked if there were any questions or concerns. Rons concerns are that the terms on the new draft went from one year to five years. Language added included “the town will enforce...” and Ron would like to know what that means. Ryan said that these are issues the town would probably follow once the town own’s the property so he does not have a problem with the changes. Tony said this is an Aspen Valley Land Trust agreement and that AVLTL is aggressive about enforcing what is on paper. If the town does not enforce, AVLTL will and will charge the town. Ron has not heard from Kendall regarding the changes. Richard asked why they would eliminate bicycles when there is a road that is used by the owners of the adjoining property with cars and ATVs. Tony spoke to the heavy use and noise on that road. Richard said there has been shooting as well. Ryan said these are things to be discussed with Pat. Richard would like to know what is expected to be enforced. Ron explained that these are things that will be required by the conservation easement even once the town owns the property. There are two separate documents – the management agreement and the conservation easement. Amber spoke to limiting the impact by increased usage of the property. She would like to keep dogs out and try to keep it pristine.

G. Committee Reports

a. Discuss Flow chart for municipal governance, Emma – She explained that this would be a model for communication as well as a model for governance. She would like to see someone from the various committees attend and report to the board. She would like the board to consider how a flow chart can inform best practices. She is willing to create one if the board is interested. Amber said there are examples of governmental flow charts on the CML website. She suggested the Board, then the town administrator, then the committees. As long as the board can make requests and get reports it will help lessen the work load on the board. She said that Ron does a good job of bridging between the board and the committees and bringing concerns to the board. Ryan said the committee meetings are open meetings. Ron suggested asking the MPC to offer some options regarding the survey questions. He asked for board input on the questions. Emma felt that some were unnecessary. Amber suggested more neutral language. Tony spoke to having some questions that reflect items not completed from the 2000 Master Plan. Alie will communicate concerns and suggestions to the MPC.

- b. Up-date on Jailhouse project, Emma – Emma reported that there have been articles in the local papers and they have resulted in funds coming in. She has asked the county for \$19,000. She has \$2500 pledged. Richard is working on the sign. Matt Piffer has agreed to donate excavating services as an in-kind donation. The general contractor has agreed to some in-kind as well. She is working with an engineering company to calculate the amount and cost of concrete needed for the foundation. She explained the significance of in-kind donations. Tony asked if she has sought the approval of the Colorado Historical offices and Emma said they got the grant from them and they have approved the plans. The total project cost estimate is \$99,000 and the work that has and is being done may clear the way for additional grants. Emma would like to go ahead and schedule the work. If they do not get funds from Gunnison County, they can continue the fundraising efforts they can then cancel the scheduled work. Amber suggested that the town make up the difference and get that work done. She said there were funds in building maintenance and in the civic engagement fund that could be used. There are also funds in reserve. Tony would like to have all the funds before any work is done. Discussion on funding followed. Emma said that scheduling could be done with the understanding that the work is pending on successful fundraising. Timing was discussed with Emma hoping to get the project done sooner rather than later. It was agreed to go ahead with scheduling but with no work done until funds are there. They can file for another extension on the grant and they will not lose the money from AVL. The city is tax exempt. Emma would like to coordinate with the parks committee to hold a community work event to move the horseshoe pit, do some trimming, etc.

c. Parks committee report – Richard Wells reported that Lindsay LeCour has joined the committee. They have an application for a musical performance to be held tomorrow and that has been approved. Lindsay is exploring grant opportunities for preservation, maintenance and the basketball court. They would like to coordinate a fall clean-up day and would like to thank volunteers at the community Thanksgiving dinner. Irrigation work at Children’s Park should be mostly completed before the LKL race. A package locker has been installed at the park. Brent is working on the budget and funding avenues. They would like to have a Pickleball fundraiser in the Spring. They are working on recommendations concerning benches. Emma would like to thank organizations like AVL, Aspen Community Foundation, Roaring Fork Outdoor Volunteers and CVEPA for interest and help they have given Marble. She suggested inviting them to a thank you event. An outdoor event was also suggested.

H. Old Business

a. Consider DOLA training with Dana Hlavac on November 2nd – Because this is the day of the regularly scheduled board meeting, it was decided to ask Dana if he could come on Jan. 11, 2024.

b. Marble Water Company meetings are Wed. Sept. 13 for a Public Meeting, Thurs. Sept 14 for the work session with the town and Fri. Sept 15 for a meeting with the Master Planning Committee.

I. New Business

a. Consider approval of Wild & Scenic Collaborative MOU – Tony Petracco made a motion to approve the Wild & Scenic Collaborative MOU. Larry Good seconded and the motion passed unanimously.

J. Adjourn – Tony Petracco made a motion to adjourn. Amber McMahill seconded and the motion passed unanimously. The meeting was adjourned at 9:56 p.m.

Respectfully submitted,

Terry Langley

Note: these minutes were done from a recording.

Marble Water Company Public Meeting
Sept. 13, 2023

John Williams reported that the Marble Water Committee (MWC) was formed in 1979 with 8 investors that developed the system with help of Wright Water Engineering (WWE). Individuals who wanted to tap in had to go through WWE and extend their own line. They began with 1500 linear feet and now have 18,000. The water tank up on the hill was installed with a USDA matching grant in 2000. It is a 150,000 gallon tank and it created enough pressure for fire hydrants and they even had to put in pressure reducing valves. Ron Leach identified where fire hydrants were needed and there are 16 hydrants. All houses in Marble are within hose distance from those hydrants. They can place line extensions wherever needed. Marble was incorporated in 1970 and June/Lloyd Blue got junior water rights 3 cubic feet – enough for a town of 10,000 people. The MWC leases 3/10 of one cubic foot of those rights to provide water for the town. The first big expansion allowed water to East Marble and there are currently five tap holders in the NW corner of E Marble.

Average income of community impacts amount of grant money available. The 2020 census showed that the average income doubled from 2010 but Marble can qualify for a grant under the 2010 census. Tom Williams did the application work. The preliminary engineering report (PER) has been done by WWE and took from March-June. It was distributed to the USDA who found many issues. They also had to do an environmental report (ER) and the USDA found more issues. Both reports have been turned in. The final PER is 497 pages. The ER is 603 pages. Cost of reports counts in the matching fund requirements. Approval should come in mid-October. Preliminary report is that it looks solid. The MWC hopes the grant will be 50/50. If, say, the grant is for a \$1 million project, \$500,000 would come from grant and \$500,000 from low interest (3%) loan. The grant has to be approved, the project go out bids with a minimum of 3 required and they must take the low bid. If that bid is unacceptable, the MWC can back out.

Project plans include installing lines from 4th street down to Park Street, down Park past Raspberry Inn. From Main Street up to Marble Village Drive, ending at Slate and going ½ way up State. Wells are at the end of 1st street. They are shallow wells, 75'. Water is pumped up to the pump house where chlorine is added (where lines end, bacteria can form). The Pump house was redone when the tank was put in. The system is gravity fed. Pressure reducing at 3rd & Marble. Want to extend Recommendations from WWE – 1. Loop from Slate & Marble, down Marble, straight south to Raspberry Inn fire hydrant. Fewer dead ends, constant water. East Marble – from main line from Marble & 3 straight south to State, east to 2^{nds}, north to Beaver Lake Lodge, west to 3rd & Marble – second loop. Addition of 2500 linear feet of pipe – brings municipal water to East Marble. Variable lot sizes with small lots grandfathered in. 3 lot properties with both well and septic leach fields. MWC water lines are 6' down. Everyone who taps in will have to be at least 5' down to avoid freezing. Must use an approved plumber and Charlie will need to inspect before, during and after.

Fire hydrants will be placed all through the expansion.

If approved, all property owners will be contacted by letter encouraging people to tie in. MWC tests water monthly. Less maintenance than with a well. No worries with leach field contamination. Need a

minimum of 6 people to sign up with a refundable \$100 deposit that will be applied to tap fees if USDA approves the grant. Required by USDA.

Target dates: Bids sent out in December, \$7500 for water tap and become an equal owner. Don't have to tie in right away. \$25 per month when not taking water. \$65 if using water. Tom Williams reported that they have 18,000 linear feet of line now. The extension will add 3900 additional feet. He reported usage of approximately 4.9 million gallons a year. The project was originally estimated at \$500,000-\$600,000 but is now estimated at more than \$1 million. Now is time to do this. Costs will only go up and we will no longer meet USDA requirements.

If all goes well, they plan to break ground the end of April or first part of May. Residents will be notified when/if construction will come in front of their homes. John & Ron drove the streets and Ron determined where lines should go to be least disruptive.

The moment they find that grant is approved, WWE will design the system. Tom reported that they began in 1979-80 with 8 original tap holders. There are 91 tap holders today. In East Marble, there are 33 properties with recorded wells and 40 within the service area that don't have taps or wells. They need 12 to sign on to justify the cost (6 needed per USDA).

The MWC is asking for support from town council due to the health & safety issues.

Questions:

1. Distance to tap? Furthest service line is currently 500' uphill. Can run 1000.
1. Adequate fire hydrant markers for winter. Who is responsible for snow removal around hydrants? Town is responsible for snow removal.
2. Will exiting tap holders payments increase? Hopefully not. 37 years at \$50. Bids may impact this.
3. Does Charlie Parker have back-up? There is a company down valley that can do that.

East Marble is priority. West Marble expansion can be eliminated if cost prohibitive.

Discussion of the possibility of a central town fountain, taking water outside of town boundaries and augmentation efforts followed.

Master Planning Committee
September 15, 2023

Present: Brian Suter, Sam Wilke, Connie Hendrix, Jeremiah Akers, Tony Treleven. Also present: John Williams, Tom Williams, Mark Chain, Terry Langley (notes).

John explained some of the Williams history in Marble. His Great grandfather ran the mill and owned a boarding house and blacksmith shop. He had a dry goods store and Slow Groovin' sits on that foundation. John restored his great grandfather's house in 1979 but didn't have good water. He got 8 investors, hired a water attorney and Wright Water Engineering. The Marble Water Company system started 1980. They are run by a volunteer board of directors. Charley Parker runs operations. Once it started, many wanted to tie in. They had to take/extend the line to their homes. They started with 1500 linear feet of 6" galvanized pipe and have expanded to 18,000 feet. The wells are at the south end of 1st street. Water is pumped to pump house then pumped up to the tank which is 300' higher. The system is gravity fed and includes a pressure valve that can be increased. They installed fire hydrants every 500' but they were not operational until 2000, when a grant from USDA (50/50 grant and loan) enabled hydrants to be activated. Originally, when power went out, water went out. But with addition of the tank, water is always available.

MWC took water to East Marble, across Carbonate Creek, to 5 homes. Cost to extend to homes was \$100 per foot which was too expensive for some residents. MWC was put in touch with Kate Sawyer, who helps people get water. John spoke to her about how to get money to get the MWC system expanded. She told him about the USDA which uses census information, including info from IRS as to income in a community. They come up with a community average. The lower the average, the better chance of getting a grant. It was low in 2000 which is how they got the grant. Kate explained that they are still using 2010 census data but that this is the last year. 2010 data shows an average income of \$48,000. The 2020 data shows an increase to \$98,000 and, using this figure, Marble would no longer qualify. They are currently qualified for matching grant/low interest loan, using 2010 data. The application process has changed drastically. Even though it is now all digital, security rules mean only one person can be contact and have access. Tom Williams took that role. The application required a PER (preliminary engineering report) that needed to be done by an engineering company. MWC contacted Wright Water in Feb., they began in March and the report was finished in July. It also required an ER (environmental report). Once they saw the reports, the USDA had many things that they wanted redone. WWE worked from July through Thursday on the PER report which is 483 pages. The ER was completed Friday and is 603 pages. USDA required the MWC to make a contribution and the cost of these reports count toward that. They should know in October if they got the grant.

This will finish all of Marble with every corner able to have MWC water. If they get it, WWE will design the system (2-3 months). Then it will go out for bid and they have to get at least 3 bids from qualified bidders. WWE will send it out. They are required to take low bid. Then MWC will send letter to all property owners in East Marble. There are homes on lots as small as 75x100 that were grandfathered in before folks were required to have 8 lots. They may have a well very near septic tanks and leach fields. There is a high probability of wells being contaminated either from your home or your neighbors. Water is not tested often enough – should be every 2 years. Quality of water in East Marble varies dramatically

– some excellent, some contaminated with sulfur and particles that need to be run through multiple filters for looks and taste. One in South East Marble is gray with sediment. Another in N Marble has 20 filters but the kids won't drink or bathe in the water.

The plan for East Marble is to extend lines from the NW corner of East Marble, go straight south to State, east to 2nd, east to Silver and back to the hydrant – every single lot will have access to community water. Residents will need to install PVC 1-2" pipe, 5' deep due to freezing. (MWC buries their lines 6 feet and have had no leaks in MWC lines in 43 years. Lines sit on a foot of sand and refill is sieved.) To tap into water line, individuals must use a licensed, bonded plumber. Charley Parker inspects the lines before, while being tapped into, and after.

In West Marble, the line currently ends at Marble Village Drive. From that pipe, they will go up Main Street, down to hydrant near Raspberry Ridge. This is a recommendation from WWE. This creates a loop that will take water completely through the system. Currently water dead ends at the end of the lines, requiring addition of chlorine. Charley tests the water every month and has to take sample to Steamboat Springs.

The number one priority is East Marble due to health and safety issues.

There are two issues: first the grant has to be approved. Second, the ratio of grant to loan warranted. They will get 2 bids one for E and one for W. If approved, the USDA begins to pay bills. If bid is too high or the ratio is too high, one possibility is to go to the town for some cooperation as was done with the tank. That resulted in the annual fee assessed for every lot owner. It improved the fire rating with hydrants capable of 1000 gallons a minute for 3.5 hours. The fire rating went from 9 to 5, resulting in lower insurance premiums.

MWC will keep town council posted on progress. USDA wants to know that people will tie onto the water system and they asked for a minimum of 6 people to commit to tapping into system by making a \$100 deposit. These will be refunded if the project does not go or the owner changes their mind. Tap fee will remain the same - \$7500. An inactive tap is currently billed at \$25 per month. When using the water, \$65 month. Once you buy a tap, you become an owner of the MWC. 8000 gallons a month for irrigation, any over costs 10 cents a gallon.

Gunnison County has 164 people within MWC service area. East Marble has 33 recorded wells and 40 with neither registered well or MWC water. The hope is that there is enough interest to cover loan.

The pressure is high enough to accommodate a sewer system. This could result in needing smaller lots, more town growth. Pressure is high enough to provide water to Serpentine but would require more pumps, pump house, tank with resulting costs.

Town has 3 cu feet of water rights and they lease to MWC .3 cubic feet.

MWC originally underestimated cost based on pipe costs and experience from previous work (tank). If can't be done now, they won't ever do it as they would not qualify for a USDA grant and costs will continue to increase. This project will add 3900 linear feet.

Begin construction end of April 2024. East Marble first. 2-3 months.

Respectfully submitted,
Terry Langley

Marble Town Council
Work Session with Marble Water Company
Sept. 14, 2023

Mayor Pro Temp, Emma Bielski, called the meeting to order at 6:05 p.m. Present: Tony Petracco, Amber McMahill and Emma Bielski. Absent: Ryan Vinciguerra and Larry Good. Also present: Ron Leach, Town Administrator; Ali Wettstein, Administrative Assistant and Terry Langley, notes. Representing the Marble Water Company (MWC): John Williams and Tom Williams

John explained some of the history of the MWC and their proposed expansion plans. They began with 8 investors in 1980 and with 1500' linear feet of pipe. Currently there are 91 tap holders and have 18,000 linear feet of line. There are lines to East Marble with five tap holders.

John has been working with the USDA on this project since January. He was directed to Kate Sawyer who helped guide John to the regional director in Delta. The main thing they needed for the grant application was a preliminary engineering report (PER) and an environmental report (ER). These took 3 months for Wright Water Engineering (WWE) to prepare. The PER is 489 pages, the ER is 603 pages.

The main goal is to provide water throughout East Marble. Based on a recommendation from WWE they also want to complete a loop in west Marble so waterlines do not dead end. (Because bacteria can form at dead ends, they now have to add chlorine). With a constant flow through 90% of system, less chlorine would need to be added.

USDA found many issues with the reports so they went back to WWE. The PER done last Thus, ER last Friday. USDA now doing evaluation and MWC should know in October if the application is approved. The USDA only allowed one contact person and that is Tom. They hope for a 50/50 grant with a 40 year low interest loan – 3% interest.

If approved – 1. WWE will help identify contractors who are licensed, bonded and certified to do this work and to receive RFPs. MWC has to have at least 3 bids and are required to take the lowest. They hope to have that step done in Jan/Feb. 2. Contact all property owners in East Marble and those in W Marble who can tie in. East Marble has some wells with excellent water and some that are terrible, including wells with such high sulfur that they have installed 20 separate filters and others that are extremely cloudy with sediment, 3. Install cast iron water pipe south to State, east to 2nd, up to Silver (Beaver Lake Lodge) back to 3rd, creating a loop.

MWC water currently tests great. East Marble contains some small lots with septic systems. These mean wells and septic systems located close together resulting in a propensity for contamination. People with wells should test every 2 years but it doesn't usually happen. Additionally there are maintenance issues such as with the pumps. MWC is most concerned about water quality and they test monthly.

USDA wants to know how serious Marble is about wanting water to more locations. They are asking for 6 in East Marble to commit with a \$100 refundable deposit. If you change your mind, or MWC decides

not to do the project, the \$100 is refundable. The deposit will be applied to the \$7500 tap fee if it goes. Tapping into the MWC will increase property values and help with health/safety concerns

All residents/properties will be able to tap into water. It will require installation by residents of 1-2" PVC from MWC lines to house. These must be buried at least 5' below for freezing. (MWC lines are buried 6'.) It will also require use of a certified, licensed and bonded plumber. Charley Parker must inspect construction before, during and after. MWC reported no leaks in 43 years. The line from tap to home is the owner's responsibility. Cost for water is \$25 per month until water is turned on, \$65 per month after. There are currently 91 tap holders (city has 5 taps).

Determining variables

1. bid amounts at or below \$1 million
2. minimum of 6 people who make the deposit
3. grant to loan ratio. If not 50/50 say 30/70, the project will not be possible

Priority is to provide water to East Marble. MWC will ask each bidder for 2 bids –one for East Marble and one for West. If, due to cost, they decide to eliminate the West Marble portion, they will need USDA approval.

The goal is to break ground in April 2024. Once approved, WWE has to do the plans with specific design and USDA will pay for that.

Tom reported that this will add 3900 linear feet. It might be last time Marble would qualify for grant because it is based on need. They can still use 2010 census data. The average income doubled in 2020 which would result in the town not qualifying. The cost of tank/pump house addition in 2000 was \$1.4 million – it would be \$4 million today. This project is only to install pipes in the ground and the originally estimated that cost to be \$100 per foot but costs are going up and WWE estimates a cost of \$1 million. They currently have 91 tap holders. Property owners in the proposed service area show 33 registered wells and 40 other with no record of well or water giving MWC 70 to recruit from. If we miss this window, MWC will only be able to get low interest loans and so this may be East Marble's only chance.

A question was asked about how this might affect the town acquiring MWC. John explained that they are two separate issues. The grant application has taken all their time and they have not been able to work with the town on acquisition terms and/or agreement. They still need four items/conditions addressed before they begin to negotiate terms. These conditions need to be agreed to and legally committed to.

A discussion about grants available to the town followed. Tony said that the original agreement was to provide water within boundaries only to help limit growth and that taps were not to be given to anyone outside the limits but he knows of three.

Amber stated that one of the sticking points in the town acquiring the MWC was MWC's requirement for a Plan B: in the event of increased nitrate testing the town would have a plan. One solution to that is an alternative well. They also want the town to continue testing, publish results, and have professional

managers/operators. Tom sees a conflict if town won't do a Plan B and agree to the other conditions. MWC wants the wells protected. Emma stated that the council also serves as Board of Public Health and that the MWC and the town can work together to guarantee water quality.

Tony Petracco made a motion to adjourn. Amber McMahon seconded and the motion passed unanimously. The meeting adjourned at 7:25 p.m.

Respectfully submitted,
Terry Langley

Notes from the Town of Marble
Work session with Gunnison County Commissioners
August 29, 2023

Mayor Ryan Vinciguerra called the work session to order at 6:05 p.m. He thanked the commissioners, the Gunnison County team and the sheriff's department for coming. Present: Amber McMahill, Tony Petracco, Larry Good, Emma Bielski and Ryan Vinciguerra. Also present: Ron Leach, Town Administrator and Alie Wettstein, Administrative Assistant.

Jonathan Hought introduced fellow commissioners, Laura Puckett Daniels and Liz Smith as well as Sheriff Adam Murdie, Undersheriff Josh Ashe, County Manager Matthew Birnie, Assistant County Manager for Public Works Martin Schmidt, Assistant County Manager for Community Development Cathie Pagano and Assistant County Attorney Sammy Obaid.

He began with an update from the Leak King Loop working group. Birnie reported that they have submitted a parking plan to the Forest Service (FS) for parking on FS land near the Gold Pan Gallery. They identified fall as the best time to do any road work. Regarding Daniel's Hill and the road to Crystal, they have scheduled a mini excavator to come over for two weeks in the fall to mitigate some of the rock issues. They have purchased and plan to install a culvert at Lizard Lake to help with mud issues. Currently they anticipate to do the same snow plowing work they have done in the past. They will continue the road plowing agreement with Colorado Stone Quarry for plowing on the quarry road. They had a meeting concerning the trail that had opened and then was closed as an overlook to the mine and are working on an agreement to get the trail opened. It is currently closed due to safety concerns.

Hought addressed the increased work that had to happen on Kebbler Pass as well as the transition of staff.

Liz Smith spoke about County Road 3 as a short connector piece. She has visited Marble and has checked out Daniel's Hill several times this summer and felt that use has calmed. Ryan said the summer had a gradual start, probably due to the issues on Hwy 133 but July use catapulted. He said there had been an article in the Denver Post about the Crystal Mill trail being closed. He explained that there was confusion and misunderstanding between that trail and the LKL but it did impact visitor numbers. He feels there will be an uptick with leaf peeping coming up. Amber said the messaging concerning OHVs is finally getting through. This includes issues around parking and how to get to the mill. She reported a change in questions that the parking attendants are getting. Larry asked about previously requested speed limit signs. Amber would like to revisit the signage components suggested by the LKL group with the county. Schmidt has been reaching out to sites such as TomTom, Google and other gps providers to revise the information they put out with some limited success.

The sheriff reported that they had more search and rescues and fatalities up in the hills than in recent past. They have some new deputies in training now, including some who want to work on this side of the hill. They want to be here when they are needed but don't want to intrude. Scott Leon resigned and is currently with the Hotchkiss police department. The sheriff said they have scheduled deputy visits 2-4 times a week with one of those on the weekend. Ryan asked about targeting weekends in the busy

summer months while acknowledging that is everyone's busy times. The sheriff hopes to get fully staffed to be able to be here more. Emma reminded that the town has offered office space with internet. The sheriff reported that they are working toward getting all deputies set with computer and hot spot capability so that they can be out and about more and space for interviewing is appreciated. Amber asked if there had been a change in the number of calls in Marble. The sheriff reported a decrease since last summer. A question about statistics was asked and they do keep those and can get a report. They do not write many tickets here and they try to correct behavior with the least amount of enforcement taken. This often means a conversation rather than a ticket. The county attorney's office, the commissioner's office and the county manager have worked on a parking ticket resolution.

Hought reported being here on a Sunday and seeing some speeding razors. He asked if locals see much use where there should not be any. Amber reported that people park on the mud flats and people drive their OHVs from there. She feels the vehicles speed more than the OHVs do. Ryan feels that the education focus has had a positive effect. He feels the problem area is from the mud flats to the speed bumps and again when they hit the dirt right outside of town. One of the commissioners reported that the quarry road is not legal for OHV or ATV traffic but the requested sign has not been installed. Tony Petracco reported that that begins at 6:00 a.m. and ends around 5:00 p.m. on a typical Saturday. He said some are quiet but others need mufflers, need to turn down their music. A question about the light bars being a problem and resulting in more time night time use was asked. The sheriff mentioned the recent OHV fatalities. A resident on Marble Village Road reported that she can see the OHV use and the parking up the quarry road all week regardless of whether there are special events. Hought reported that the current White River National Forest plan pushed motorized vehicle use to the edges and, unfortunately, Marble is on the edge. He reported an increase on Gunnison County public lands and said they are having the same issues in the Gunnison National Forest and all across the west. Discussion about OHV use on Gunnison County and other county roads followed. Noise, dust and safety were mentioned as well as the fact that they are allowed in Marble and in the National Forest. A change in that might change county allowance but that policy has to be the same for everyone – residents and non-residents alike. Parking on CR 3 and in the forest including enforcement and safety was discussed. Use of a permit system was also discussed along with suggestions from the LKL steering committee/working group. Roger spoke to the necessity of Crystal residents having OHVs as well as to the access in emergencies. Chris Palmer said that dealing with the many different uses that people are passionate about – hiking, running, horseback riding, fishing, mountain biking, motorcycling, off roading, etc. – means a need to work together on balanced solutions. A question was asked concerning the county proposal to the FS about proposed parking was asked. They have shared two proposed options with the FS but have not heard back yet. It will be shared when appropriate. Rob Anderson asked about the town's stand on ATV use. Ryan said the trustees feel that this is a ballot issue and could also be part of the Master Plan work. Amber said the feeling seems to be that many want to see use allowed. Tony suggested an informational ballot. Hought spoke to the differing visions of small towns.

Amber spoke to the short-term rental and housing availability issue both in town and in the county. One commissioner said they have been given the authority to issue licenses and the struggle with enforcement and getting unlicensed STRs off of websites. Daniels said there needs to be accurate data collections. Crested Butte is incorporated and has their own regulations. To do this county wide would require an election. Hought said they have a company that audits sites to help with collection of taxes

and revenue from this area comes back to the area. Banning them from on-line sites would probably not mean transition to long-term rentals as the str rent helps pay for them. Smith added that this has been part of state-wide conversations. Hought said that the numbers have remained fairly static in the past years. Amber would like to see data differentiated between whole houses and part of a house. She asked if there was a way to incentivize using properties for long-term. Hought said the county's share of property tax is capped and there are not tax revenues that would cover that. Smith said this could be done at the state level, such as taxing it at the state commercial state and using the increase for affordable housing or a rebate fund. Larry said Marble is at 10% now and they need to keep an eye on capping the numbers. Hought spoke to the fact that some owners go with str for a very short time while some rent all year long. Larry Darien suggested allowing more units on a lot, particularly for large lots and acreages. Hought said the county has eliminated the square footage requirements to allow for smaller homes and accessory dwelling units. Darien asked about the requirement for fire suppression in new builds and it was explained that it is dependent on location, fire danger and more. Charlotte Graham asked if the county had any plans for the Hub building, the lease arrangement or maintenance/improvements. She was told there were not plans to change the lease. She was referred to John Kettle of the county. He has been over to look at the building and the maintenance needs, such as the roof and the door. Due to the historical designation and staff shortages, work can take time. Char spoke about problems with roof repairs as well as rotting window frames and painting needs. She asked if there was anything that can be done to help facilitate things. Char said someone came and mowed part of the hillside in June but did not finish and left the brush sitting there – she is concerned about fire danger. It was reported that Dustin Wilke had done some work. Char's concerns will be forwarded to Kettle. Emma spoke to the fact that the county owns the building and that limits what the town can do, particularly in terms of grants and funding. One of the county representatives said there could be conversations regarding partnerships, ownership and responsibility.

A question about wildfire restrictions and signage was asked by a citizen. A red flag day does not immediately trigger Stage 1 or 2 restrictions. There are both local and regional cooperative meetings every week. The northern part of the county is treated differently due to different drainages and weather patterns. The power is delegated to the Fire Warden (the Sheriff) to make immediate designation. A question about communication was asked and the county said that signs that have been posted were torn down or destroyed. The citizen suggested old-school Smokey the Bear signs that communicate what the fire danger level is and what it means. Fire information is posted on Facebook and through the Sopris Sun. The county kiosk is another possible avenue. County fire restrictions are only for unincorporated county land. The town does their own and Ron explained that town restrictions go into effect whenever the sheriff puts county restrictions in effect.

Emma said that at the last work session, the commissioners had encouraged a letter requesting discretionary funds for the jailhouse preservation project and she has done that. She explained that they are working on Stage 1 of the project which is for installing a foundation. The first phase will cost about \$38,000 and the town needs to come up with some matching funds or may lose a grant. They have \$18,000 committed. The county preservation board helps by seeking grants but does not have much in dedicated funds. They asked for a project description. Emma said that she was asking for \$20,000. There are approximately \$80,000 in discretionary funds and it would have to be decided in an

official commission meeting. Emma asked how quickly the commissioners could work on this and it would not be at the next meeting but perhaps at the one after that.

Amber asked if the town could be informed when anything comes up on the county agenda that concerns Marble. Hought suggested that Ron get on the weekly distribution list for the agenda.

The meeting was adjourned at 8:25 p.m.

Respectfully submitted,
Terry Langley (from a recording)

Town of Marble
Ordinance Number ____
Series of 2023

AN ORDINANCE AMENDING THE ZONING CODE WITH RESPECT TO ALLOWING
RESIDENTIAL USE IN THE BUSINESS ZONE

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 is authorized to regulate land use matters within its boundaries, *see* C.R.S. § 31-23-101 *et seq.*, and has adopted land use regulations known as the Zoning Code.
- C. Section 7.2.10 of the Zoning Code establishes three zones: Residential, Business, and Public Use. Section 7.2.20 defines “uses by right” and “uses by review” within each zone. Currently no type of residential use is allowed as either use by right or use by review within the Business zone.
- D. The Town has adopted a Master Plan, *see* Ordinance No. 4, Series of 2000. The Master Plan states: “The Town should adopt zone districts that are based on encouraging a range of uses, as opposed to a more urban land use pattern which creates strong boundaries between residential and commercial land uses. A more “mixed use” approach appears to fit the landscape of Marble in a more consistent fashion than traditional zoning approaches.”
- E. Most existing commercial properties in Town include a residential land use component as a pre-existing non-conforming use.
- F. The Town desires to update the Zoning Code provisions to allow residential uses on Business zone properties.

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

- 1. Section 7.2.20.B.2 is amended to add “single-family dwelling units, manufactured homes, and multi-family dwelling units” as authorized Uses by Review within the Business Zone.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY this
____ day of _____, 2023, by a vote of ____ in favor and ____ opposed.

TOWN OF MARBLE:

ATTEST:

Ryan Vinciguerra, Mayor

Ron Leach, Clerk

**TOWN OF MARBLE
GENERAL FUND
2024 Budget
10/1/2023**

	2022 Audit	2023 Estimate	2024 Budget
Beginning Balance	356,227	446,018	442,173
Revenues			
Taxes			
General Property Tax	0	0	41,302
Specific Ownership Tax	0	0	1,500
Additional License Tax	0	0	695
Property Tax Interest	0	0	100
Taxes Other	0	0	0
Total Taxes	31,108	35,000	43,597
Licenses & Permits			
Business Licenses	0	800	1,000
Building Permits	0	4,500	6,000
Septic Permits	0	1,023	3,000
Other Licenses & Permits	0	2,050	1,000
Short Term Rental Licenses	0	200	0
Total Licenses & Permits	8,502	8,573	11,000
Intergovernmental			
General Sales Tax	173,305	165,000	170,000
Highway User Taxes (HUTF)	11,256	13,000	13,000
Colorado Trust Fund	0	0	0
Severance Tax	6,560	1,515	2,000
Mineral Lease Distribution	2,305	9,055	8,000
Cigarette Tax	244	200	200
Other Intergovernmental	0	0	0
Grant Revenue	131,681	12,500	0
Other Permit & License Fees	0	0	0
Total Intergovernmental	325,351	201,270	193,200
Other Revenue			
Paid Parking Program Revenue	0	0	0
Campground Revenue	40,026	45,000	45,000
Interest Revenue	7,666	9,879	10,000
SGB Lease Agreement	2,732	2,800	2,900
CSQ Lease Agreement	22,930	30,000	32,000
CSQ Maintenance Payments	3,600	3,600	3,600
Holy Cross Electric Rebates	653	500	500
Donations	4,000	0	0
Lead King Loop Project	0	0	0
Marble Fest	26,353	25,230	25,000
Non-Specified	2,265	1,003	1,000
Transfer Water Fund, Admin Costs	0	2,000	1,000
Total Other	110,225	120,012	121,000
Total Revenue	475,186	364,855	368,797

**TOWN OF MARBLE
GENERAL FUND
2024 Budget**

	2022 Audit	2023 Estimate	2024 Budget
Expenditures			
Wages & Benefits			
Town Clerk Ron	0	0	0
Enforcement Officer	0	0	0
Other Salaries Jenny & Jim & Mark	0	0	0
Park Employee Charlie	0	0	0
Parking Enforcement Officer	0	0	0
Total Wages	0	110,000	115,500
FICA/Medicare	0	8,000	8,400
Total Wages & Benefits	103,324	118,000	123,900
General Government			
Paid Parking Program Expenses	0	1,500	1,000
Office Improvements & Expenses	5,045	2,500	10,000
Campground Improvements & Expenses	26,003	22,000	25,000
Treasurer Fees	0	500	500
Elections	1,686	400	3,000
Unclassified	172	5,000	0
Marble Fest Expenses	25,553	23,000	23,000
Church Rent	100	600	600
Civic Engagement Fund	100	1,500	1,500
Office Expenses	19,414	16,000	17,000
Legal Publications	0	1,000	1,000
Dues & Subscriptions	577	500	500
Workshop/Travel	1,517	1,000	2,000
Lead King Loop Project	10,253	0	0
Recycle Program	2,983	1,600	2,000
Master Planning	0	25,000	0
Transfer to Park Fund	0	25,000	25,000
Grant Expenditures	111,840	19,000	0
Planning & Zoning	0	0	0
Jail Foundation	0	0	0
Historic Preservation Commission	0	0	0
Carbonate Creek Dredging	0	0	0
Total General Government	205,243	146,100	112,100
Roads			
Street Maintenance	15,325	5,000	20,000
Snow & Ice Removal	22,197	53,000	35,000
Total Roads	37,522	58,000	55,000
Purchased Professional Services			
Legal - General	11,808	12,000	20,000
Audit	9,400	11,000	12,000
Municipal Court	0	0	1,500
Engineering Services & Inspections	2,378	10,000	12,000
Planning Consultant	3,840	0	0
Total Purchased Professional Services	27,426	33,000	45,500
Other Purchased Services			
Liability & Workers Comp. Insurance	5,338	7,000	7,500
Utilities	2,988	4,000	4,500
Grant Writing	0	0	1,000
Earth Day Expenses	3,555	2,600	3,000
Total Other Purchased Services	11,881	13,600	16,000
Total Expenditures	385,396	368,700	352,500
Ending Balance	446,018	442,173	458,470

**TOWN OF MARBLE
PARK FUND
2024 Budget
10/1/2023**

	2022 Actual	2023 Estimate	2024 Budget
Beginning Balance	5,622	0	0
Revenues			
CTF Funds	393	1,500	1,500
Interest	0	0	0
Donation	0	0	0
Transfer in from General Fund	0	25,000	25,000
Total Revenue	393	26,500	26,500
Expenditures			
Parks Maintenance	34,102	21,500	26,500
Improvements	0	0	0
Historical Park Preservation Commission	0	0	0
Grant Writer	0	0	0
Other	0	0	0
Jail Preservation Grant Matching Funds	0	5,000	0
Total Expenditures	34,102	26,500	26,500
Ending Balance	-28,087	0	0

**TOWN OF MARBLE
WATER FEE FUND
2024 BUDGET
10/1/2023**

	2022 Audit	2023 Estimate	2024 Budget
Beginning Balance	0	3,849	3,849
Revenues			
Fee for Service	23,849	21,000	21,000
Total Revenue	23,849	21,000	21,000
Expenditures			
Administration Costs	0	1,000	1,000
Fire Protection/Water Tank	20,000	20,000	20,000
Total Expenditures	20,000	21,000	21,000
Other Financing Uses			
Transfer out to General Fund	0	0	0
Total Expenditures and Other Financing Uses	20,000	21,000	21,000
Ending Balance	3,849	3,849	3,849

MARBLE WETLANDS PRESERVE

MANAGEMENT AGREEMENT

Between

THE TRUST FOR LAND RESTORATION,

THE TOWN OF MARBLE,

&

THE ASPEN VALLEY LAND TRUST

I. PARTIES

This Management Agreement is entered into between the Trust for Land Restoration (TLR), the Town of Marble (TOWN), and the Aspen Valley Land Trust (AVLT), referred to herein as "The Parties."

II. PURPOSE

This Management Agreement's purpose is to establish an understanding and a working relationship between the Parties whereby TLR, as owners of the 54-acre Marble Wetlands Preserve (PRESERVE) Property, designates the TOWN as managers of the PRESERVE, and recognizes AVLT's rights and responsibilities, as holders of the Conservation Easement to be granted by TLR to AVLT on or before December 1, 2023, to monitor and, if necessary, enforce terms of the Conservation Easement; to provide for the management and public use of the PRESERVE in a manner that best protects the Conservation Values associated with the Property, as enumerated in the Conservation Easement and further described in the Management Plan. The Management Plan is to be prepared by AVLT and to be adopted by consent of the Parties on or before November 1, 2023 and incorporated by reference into the Conservation Easement thereafter.

III. MUTUAL INTEREST OF THE PARTIES

TLR, the TOWN, and AVLT each have a mutual interest in a management agreement that allows for certain public uses while ensuring the best and most effective protection and preservation of the PRESERVE for the benefit of wildlife and the Conservation Values associated with the Property, as identified in the Conservation Easement.

The PRESERVE is intended to allow the public passive use of the PRESERVE, and utilization of it for child and adult outdoor education activities, as long as they are compatible with and do not harm the identified Conservation Values associated with the Property.

The Parties acknowledge that TLR as owner of the PRESERVE retains the responsibility to assure the Conservation Values are maintained and protected and has the authority to delegate management responsibilities to a reliable third-party, including the TOWN and AVLT.

The Parties acknowledge that the PRESERVE'S physical proximity to the TOWN of Marble and to other TOWN-managed recreational assets, including the Marble Millsite Park and the Marble Campground, combined with the interest and local knowledge of citizens, citizen groups, volunteers, the TOWN staff and Board of Trustees; plus the Town's ability to add the PRESERVE to the TOWN's general liability insurance policy; and the ability of the TOWN to apply for grants as may be appropriate make the TOWN well suited to be the manager of the PRESERVE.

The Parties further acknowledge that AVLT, as the conservation easement holder and as a land trust with considerable land-conservation, land-management, outdoor education and recreation-management experience, is responsible for providing periodic monitoring of the condition of the property and public use of the PRESERVE to assure the Conservation Values, as enumerated in the Conservation Easement, are maintained and protected.

IV. RESPONSIBILITIES OF THE PARTIES

By entering into this Management Agreement, the parties agree to the following:

TLR, as owner in fee simple of the Marble Wetlands Preserve and as grantor of a conservation easement to AVLT designed to maintain and protect certain Conservation Values, has the authority and hereby designates the TOWN the managers and enforcers of the PRESERVE.

TLR reserves the right to designate the Crystal Valley Environmental Protection Association (CVEPA) as its local representative for any and all responsibilities ascribed to TLR in this management agreement.

TLR or its designate will be responsible for placing signage at the entry ways to the property enumerating terms for public use. Signage will recognize the TOWN as the managers of the PRESERVE and AVLT as the Conservation Easement holder.

TLR or its designate will be responsible for placing protective signage at the Hoffman Smelter Site.

TLR or its designate will be responsible for any and all property taxes payable to Gunnison County that may come due during the time this management agreement is in force and thereafter, for as long as TLR is the fee-title owner of the property.

TLR or its designate will be responsible for any and all interactions with state and federal regulatory agencies with regard to the Hoffman Smelter Site and the associated Voluntary Cleanup Agreement with the State of Colorado.

TLR or its designate has the right but not the obligation to conduct public outreach and outdoor education activities on the PRESERVE as it deems appropriate, provided the Marble Town Manager is notified at least 30 days prior to the activity to avoid scheduling conflicts.

The TOWN will be responsible for patrolling and, as may be necessary, enforcing terms for public use of the PRESERVE, as prescribed in the Conservation Easement document and the Management Plan; including but not limited to prohibiting use of motor vehicles, motorcycles, ATVs, or bicycles by the general public (except as authorized by a right-of-way easement/agreement dated June 25, 1969), keeping gates closed, maintaining signage, dumping and waste management, trespass, property damage, and prohibiting overnight camping, fires, hunting or discharge of firearms.

Unless otherwise agreed to in the Management Plan, dogs are allowed on the PRESERVE provided they are leashed or under voice command, and they do not chase, harass or disturb wildlife.

The TOWN reserves the right to perform routine maintenance and upkeep of the PRESERVE without further notice to, or permission

from TLR. For the purposes of this agreement, "routine maintenance and upkeep" is defined as trash and debris removal; sign upkeep; erosion control; and management of weeds and insect infestations by means necessary but emphasizing non-chemical methods.

TLR reserves the right to perform weed management using selected and appropriate herbicides, provided TLR gives at least 10 days prior notice to the TOWN and AVL T.

The TOWN agrees to notify TLR and AVL T before undertaking any changes or improvements not considered "routine maintenance and upkeep." This will afford TLR an opportunity to consult with AVL T and others to ensure that the activities or uses in question are designed and carried out in a manner consistent with preservation and protection of the Conservation Values of the Property. Whenever notice and approval are required, the TOWN shall notify TLR in writing not less than sixty (60) days prior to the date the TOWN intends to undertake the activity or use in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity or use in sufficient detail to permit TLR to consult with AVL T and others as necessary to make an informed judgment as to the activity or use's consistency with the preservation and protection of the Conservation Values of the PRESERVE.

The TOWN has the right but not the obligation to conduct public outreach and outdoor education activities on the PRESERVE as it deems appropriate.

The TOWN agrees to add the PRESERVE to the TOWN's liability insurance policy and name TLR and AVL T as additional insured.

AVL T, as the conservation easement holder and as a land trust with considerable land-conservation, land-management, outdoor education and recreation-management experience, is responsible for providing periodic monitoring of the condition of the property and public use of the PRESERVE to assure the Conservation Values, as enumerated in the Conservation Easement, are maintained and protected; and has certain rights to enforce or coordinate with the TOWN to enforce terms and conditions of the Conservation Easement as described in the Conservation Easement.

AVL T has the right but not the obligation to conduct public outreach and outdoor education activities on the PRESERVE as it deems appropriate. provided the Marble Town Manager is notified at least 30 days prior to the activity to avoid scheduling conflicts.

The Parties agree that public access to the PRESERVE, in support of the Property's Conservation Values and Management Plan is

encouraged, provided that such access is not inconsistent with the terms of the Conservation Easement. The timing and scope of public access may be limited by mutual consent of the Parties to protect the Conservation Values. TLR and the TOWN shall ensure that any public access is consistent with Colorado’s recreational use statute C.R.S. § 33-41-101 *et seq.* and provides indemnity to the Parties for the public’s access to and use of the PRESERVE.

The Parties agree to work together to seek public access to the PRESERVE across land to the west of the PRESERVE currently owned by the State of Colorado and managed by the Colorado Department of Parks and Wildlife.

The Parties agree that should any one or more sections or provisions of this Agreement be judicially adjudged invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Agreement, the intention being that the various sections and provisions hereof are severable.

The Parties agree and understand that the TOWN is relying on and does not waive, by any provisions of this Agreement, the monetary limitations or terms or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101, *et seq.*, as from time to time amended or otherwise available to the Parties or any of their officers, agents, or employees.

V. PERIOD OF AGREEMENT, MODIFICATION AND TERMINATION

This Management Agreement is effective as of the day of the last party to sign below and is effective for a period of five years. It may be renewed by mutual agreement of the Parties. It may be amended by mutual agreement of the Parties at any time. Any of the Parties may terminate this Management Agreement by providing one hundred twenty (120) days written notice to the other Parties. In the event this Management Agreement is terminated, each party shall be solely responsible for its costs.

IN WITNESS WHEREOF, the parties have executed the foregoing on the day and year above first given.

Patrick Willits, Executive Director
The Trust for Land Restoration

Date

Ryan Vinciguerra, Mayor

Date

The Town of Marble

Suzanne Stephens, Executive Director
The Aspen Valley Land Trust

Date

To:

The Trust for Land Restoration
PO Box 743
Ridgway CO 81432
Attn: Patrick Willits patrickwillits@gmail.com

To:

The Town of Marble
322 West Park Street
Marble CO 81623
Attn: Ron Leach leach@townofmarble.com

To:

Aspen Valley Land Trust
320 Main St #204
Carbondale, CO 81623
Attn: Suzanne Stephens suzanne@avlt.org

ATTORNEY CLIENT AND WORK PRODUCT PRIVILEGED COMMUNICATION

MEMORANDUM

FROM: Law of the Rockies, Kendall Burgemeister

TO: Town of Marble Board of Trustees

DATE: October 2, 2023

SUBJECT: Proposed Trust for Land Restoration Memorandum

Background

The Town has been presented with a draft agreement between the Trust for Land Restoration (TLR), the Town, and the Aspen Valley Land Trust (AVLT), regarding management of the wetlands parcel donated by Pam Hepola to TLR.

TLR plans to grant a conservation easement to AVLT. We have not seen a draft of the conservation easement. The agreement also references a “Management Plan” to be prepared by AVLT and to be adopted by consent of the Parties on or before November 1, 2023, but we have not seen a draft of such Management Plan.

In September of 2022, while finalizing the agreement with the Town to participate in the CDPHE voluntary clean up (VCUP) for the subject property, TLR provided the Town with a written “Statement of Intent and a Good Faith Pledge,” to donate the property to the Town within 24 months.

The draft agreement would designate the Town as “managers and **enforcers** of the PRESERVE,” and states the Town would be “responsible for patrolling and, as may be necessary, enforcing terms for public use of the PRESERVE, **as prescribed in the Conservation Easement document and the Management Plan**; including but not limited to prohibiting use of motor vehicles, motorcycles, ATVs, or bicycles by the general public (except as authorized by a right-of-way easement/agreement dated June 25, 1969), keeping gates closed, maintaining signage, dumping and waste management, trespass, property damage, and prohibiting overnight camping, fires, hunting or discharge of firearms.”

The Agreement also obligates the Town to “add the PRESERVE to the TOWN’s liability insurance policy and name TLR and AVL T as additional insured.”

Both TLR and AVL T reserve the right to conduct “outdoor education activities” on the Property.

Concerns

The draft agreement does nothing to reinforce TLR’s pledge to donate the property to the Town. To the contrary, the proposed five-year term of the agreement suggests TLR may not intend to transfer ownership to the Town. Also, one would expect that if the plan was to transfer ownership to the Town, the Town would be invited to participate in the discussion of the terms of the AVL T conservation easement and management plan, since the Town would be stepping into TLR’s shoes as a party to those instruments. However, that has not happened.

The draft agreement gives TLR and AVL T rights to control uses of the property (e.g. by giving them the right to conduct “public outreach and outdoor education activities” without any definition of what those terms mean), while assigning to the Town the responsible to enforce the rules regarding use of the property and to insure against liability from activities taking place on the property. This framework is problematic for a few reasons.

First, the Town has no “enforcement” authority on property outside the Town boundaries. At most, the Town would have to resort to the same remedies as any other private property owner: report unlawful conduct to the sheriff, or bring a civil trespass claim when individuals use the property in contravention of the permissible uses.

Second, there is no standard of performance. If a member of the public makes an unauthorized use of the property and the Town declines to sue them for trespass, is the Town in breach of the agreement? If so, what are the consequences?

Third, while CIRSA has told Mr. Leach that, in general, the property can be added to the Town’s liability policy, it is problematic to make the Town responsible for insurance yet give the Town no control over the use of the property for “public outreach and outdoor education activities.” Certain special events may require additional insurance endorsements. The Town would need to play a role in reviewing and approving proposed events to ensure adequate insurance coverage is in place.

Also regarding liability, the draft agreement states “TLR and the TOWN shall ensure that any public access is consistent with Colorado’s recreational use statute C.R.S. § 33-41-101 et seq. and provides indemnity to the Parties for the public’s access to and use of the PRESERVE. The recreational use statute does not provide “indemnity.” The Town cannot provide any party with indemnity. At a minimum, this provision should be re-written to clarify that the Town is not providing indemnity, and TLR and AVL T are indemnifying the Town against any liability arising from their uses or authorization of uses of the property, and they are releasing the Town from any claims arising from the Town’s performance of its obligations under the agreement.

Potential Solutions

The Town may choose to request any one or more of the following possible solutions to address concerns presented above:

- Ask to review drafts of the conservation easement and management plan.
- Make the Town's obligations under the agreement contingent upon obtaining unanimous consent to the management plan.
- Inquire with TLR regarding its intentions to donate the property to the Town, and incorporate the pledge into this agreement.
- Provide additional clarity regarding TLR's expectations for the Town's "management and enforcement" activities.
- Indemnify and release Town from liability for any claims and liability arising from public use of the property, in particular uses that are authorized as TLR or AVL T "public outreach and outdoor education activities," but which are outside of the scope of the Town's liability insurance.
- TLR and AVL T's sole remedy against the Town for failure to perform the Town's obligations under the agreement shall be termination of the Agreement.
- Clarify that the Town is not providing any indemnity.
- Change term from 5 years to 1 year, with automatic renewal unless any party provides notice of non-renewal 60 days prior to the anniversary.