

Town of Marble
Special Meeting of the Board of Trustees
June 27, 2017
7:00 P.M.

Marble Community Church, 121 W. State St. Marble, Colorado
Agenda

7:00 P.M.

- A. Call to order & roll call for the Special Meeting of the Board of Trustees
- B. Approve previous minutes
- C. Mayor's Comments
- D. Discussion and possible appointment regarding filling open seat on the board of trustees
- E. Discussion hiring a campground host
- F. Adjourn

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June 22, 2017

Via Email

Ron Leach, Town Clerk
Kendall Burgemeister, Town Attorney
Town of Marble
322 West Park Street
Marble, CO 81623
E-mail: leach@townofmarble.com
E-mail: kburgemeister@lawoftherockies.com

Re: Appointment of Town Trustee

Dear Mr. Leach and Mr. Burgemeister:

This letter is to follow up to my correspondence prior to last week's special Town Meeting held on June 14, 2017. As discussed in my previous emails, I believe that the process for the appointment of Glen Smith to fill the Town Trustee vacancy left by Richard Wells' resignation the day after the Town's regular meeting on May 4, 2017 was flawed. Pursuant to C.R.S. Sec. 31-4-303, the Town Board needed to decide, within 60 days of the vacancy, to either appoint someone to fill the vacancy or hold an election. At the regular June 1, 2017 Town meeting, the Mayor stated that he wanted information posted on the website regarding the vacancy and seeking applications, although he wanted to talk to Richard Wells first to see if he would reconsider his resignation.

No information was ever posted on the Town's website regarding the vacancy and appointment process/qualifications. Instead, the Town called a special meeting for a Wednesday (not a Thursday which is when Town meetings are typically held) and merely posted the notice and agenda thereof on Monday, June 12, 2017, indicating that there would be "Discussion and possible appointment" of a Town trustee. No notice was provided to the public to apply for such appointment and even on June 13, 2017, the day *prior to the meeting*, the Town Clerk stated he did not have a list of possible appointees.

Although the statutes do not provide a specific process for appointing someone to fill a vacancy on the Board, it is a disservice to the Town and constituents to not have followed a more open and transparent process as indicated by the Mayor at the June 1, 2017 meeting. The Board had until July 4, 2017, in which to make the appointment or decide to have an election. It does not make sense that they rushed the appointment on June 14, 2017.

Mr. Smith will not be sworn in until the regular Town meeting scheduled for July 6, 2017. I would urge the Town Board to reconsider how it proceeded with this appointment and in the spirit of transparency and process to post the vacancy and re-notice a special meeting for next week to allow interested persons to apply. Thank you for your consideration of this matter.

Sincerely,

GARFIELD & HECHT, PC -


Mary Elizabeth Geiger

cc: Steve Lucht

1673764

Town of Marble

Minutes of the Special Meeting of the Board of Trustees

June 14, 2017

7:00 P.M.

Marble Community Church, 121 W. State St. Marble, Colorado

A. Call to order & roll call for the Special Meeting of the Board of Trustees – The meeting was called to order at 7:00 p.m. Present: Will Handville, Tim Hunter, Mike Yellico, Larry Good. Absent: Ron Leach, Town Clerk. Also present: Terry Langley, minutes.

B. Approve previous minutes – Tim Hunter made the motion to approve the minutes. Mike Yellico seconded and the motion passed.

C. Mayor's Comments – Will Handville reminded those present that the meeting was to be conducted with dignity.

D. Discussion and possible appointment regarding filling open seat on the board of trustees – Will reported that there has been correspondence from Steve Lucht's attorney regarding the need for posting if there is an election. Will stated that there does not need to be a posting or an election: a trustee can be appointed until the time of the next election. One person has come forward and is willing to fill the seat: Glenn Smith. The town attorney will be consulted to see if it takes a special meeting for the appointment and/or swearing in. Larry Good asked about the one year residence requirement and whether Glenn has lived in town for that period. Glenn said that he has lived in town for the past year and a half. Tim suggested that Glenn be recused from voting on the Gallo Hill project. Will disagreed, saying that no matter who is selected, there will be those who say the deck was stacked. He feels that someone who is intelligent, rational and thoughtful and can put the interests of the town ahead of personal views can fill the position. He also feels that it is important to have a full council for the vote. Larry talked about how moving from a citizen to a trustee changes a person's responsibilities. Tim Hunter does not feel that it is right to bring someone who has not heard all the discussion and ask them to vote. Mike Yellico made a motion that Glenn Smith be appointed to the position left vacant when Richard Wells resigned. Larry asked about drafting other candidates as has been done in the past. Will said he has asked many people if they would be willing to serve and has found no one except Glenn. Larry seconded Mike's motion and the motion passed. It remains for Glenn to be sworn in and paper work signed.

E. Discussion hiring a campground host – The trustees discussed various applicants and parameters of what is appropriate, expected and what can and cannot be done on the town property. These will be made clear to the person hired. Will plans to drive through each day, check on how things are going and check with campers on how they like the host. Duties of the host as well as some of the maintenance needs to be completed by the town were discussed, including clearing more brush, cleaning the horseshoe pit, working on the swing set (moving, cleaning & painting) and finishing the pump house. The host will be responsible for working with the HUB on reservations and payments, keeping the camp pristine and the bathrooms clean, cleaning fire pits, picking up trash and watering. Mike Yellico moved that Jim Aarts be hired as the campground host. Larry Good seconded and the motion passed.

F. Old Business

Town Cleanup day -Tim Hunter apologized for listing the wrong dates on the sign board but said it was a great success. He now is familiar with the weight and dump fees.

Slowing traffic - Speed bumps will be installed soon. Will reported that speed limits will be painted on the road.

G. Adjourn - Larry Good made the motion to adjourn. Tim Hunter seconded and the motion passed. The meeting was adjourned at 7:34p.m.

Respectfully submitted,

Terry Langley

Town of Marble
Minutes of the Meeting of the Board of Trustees
June 1 2017
7:00 P.M.
Marble Community Church 121 W. State St. Marble, Colorado

- A. Call to order & roll call for the Executive Session of the Town of Marble Board of Trustees – The Executive Session was called to order at 6:30 p.m. by Mayor Will Handville. Present: Will Handville, Tim Hunter, Larry Good, Mike Yellico Also present: Ron Leach, Town Clerk, Terry Langley, minutes and, via telephone, Kendall Burgemeister, Town Attorney
- B. Executive Session pursuant to CRS 24-6-402(4)(b), for the purpose of receiving legal advice regarding the Gallo Hill use by review application.
- C. Adjourn –Larry Good moved to adjourn the Executive Session. Mike Yellico seconded the motion.. The motion passed and the Executive Session was adjourned at 7 p.m.
- D. Call to order & roll call for the Meeting of the Town of Marble Planning Commission – The meeting was called to order by Will Handville at 7:05 p.m. Present: Will Handville, Tim Hunter, Larry Good , Mike Yellico. Also present: Ron Leach, Town Clerk. Terry Langley, minutes and, via telephone, Kendall Burgemeister, Town Attorney.

a. Public Hearing re: Gallo Hill housing proposal, Will reminded those assembled that the meeting will be run with respect and dignity. The applicant will present the project, the members of the planning commission will discuss the project and then the public may make comments to the commission. Comments are to be limited to three minutes and must be addressed to the commission in the form of statements, not questions. Ryan Vinciguerra introduced Andi Korber, architect. She explained that the proposal is for five 2-bedroom cabins. She stated that all of the requested documentation has been provided. These include a site plan, hazard report, proof of ownership (title insurance), a title report showing deeds and encumbrances, the existing conditions survey and architectural schematics for the cabins. The site plan on the website is not the final site plan – the final plan shows setbacks in response to the hazard report. She noted that, rather than a request for a variance as listed in Ryan’s original January letter, they were requesting a Use by Review. The lot is zoned R (residential) and that allows for a request for a special review for more than one residence per lot. Residential zoning does not currently specify low density. It does require a minimum lot size of one acre, but does not state how many units can be on that lot. The current septic design meets the town septic requirements. The number of people in a residence is not limited in the zoning. They feel that smaller homes would result in a lower impact than a large home. The design includes screenings to mitigate visual impact. Regarding the Wright Engineering study, they requested Sopris Engineering do an overlay with the Wright study but Sopris told them that the Wright study is inaccurate as it does not match the topographic survey nor does it match the aerial. They recommended a site specific study. This was done by H.P. Kumar Engineering and is included in the proposal package. The plan provides for two parking spaces per cabin. When they reviewed annexation documentation and current zoning regulations, they found nothing that limits the number of dwellings or bedrooms per acre.

The building commission members had no comments to make at this time so the meeting was opened to public comment.

Emma Bielski spoke in favor of the project. She feels that Ryan has gone above and beyond to be compliant and responsive. Vince Savage stated that, as a sometimes resident of Aspen and his experience there, he wonders if 2 parking spaces per cabin is adequate. Charlie

Manus stated that a Public Hearing requires certified letters and the posting of 18 x 24 inch sign for 30 days. He stated that the site plan does not show any accommodations for storage (lawn mowers, toys, etc.). He also feels that this would be commercial rather than residential. Kendall stated that the zoning code does not have a formal requirement for notice of a use by review hearing. The applicant mailed notices 15 days prior and has posted notice and thus has gone beyond requirements. Christi Seidlinger would like a letter dated April 29, 2017, be entered into the public comment. She stated that, when the land was annexed, Ordinance 6 1998 it was R1 low density. She feels that this project, five buildings with two bedrooms is not low density and is a housing development not single family residential. If approved, you are ignoring town ordinances, the master plan and neighbor opposition. Dan Quinn stated that he is a neighbor who approves this project. He spoke to the difficulty of finding affordable housing in Marble. He said that three neighbors do short term rentals which seem more commercial than a long-term rental. He feels that the idea of needing road improvements is exaggerated as all of the streets are narrow. As far as home value decreasing, the market has increased substantially in the recent past. Ryan's restaurant increases the exposure of Marble and increases property values. Todd Magarin said that he lives directly next to the property and is opposed to the project. When he bought his property and built his house, he had to adhere to town regulations. He feels that this is spot zoning. He could have built two houses except for the restrictions. He maintains the road in the winter and knows that the road needs improvement. He feels this is bad for the community. Evie Handville said that she opposes the project due to the density and effect on the quality of life of the nearby residents. Emma Bielski proposed that the stakeholders have a mediated conversation with Ryan to address the concerns. Christi Seidlinger responded that this is a public meeting has to be discussed in the light of day. Due to the road issues it should only include residents on the road. The dust is horrendous. The road needs attention regardless of Ryan's project. If approved, the road needs to be widened. One vehicle has a hard time in winter. Fire trucks can't get up safely, propane can't be delivered and UPS can't get up. Steve Higgenbotham said that when he bought his lot he was restricted to one acre, one house. He would like to know when that stipulation changed and he suggests a smaller project, perhaps 4 units, as an alternative. Steve Lucht stated that he is opposed on several different grounds including what he sees as pushing and pushing. He stated that Ryan has seen the letters in opposition. This is a defining moment in the town. He stated that there are other regulations that have not been addressed, including the definition of family in zoning code. It states that no more than 3 unrelated people can live in a structure. This goes against the idea that there could be a larger structure with many bedroom. Would Ryan then be required to submit list of residents? 5000 square foot house still comes under 3 unrelated. Martha Roberts stated that, from the people that have spoken and letters written, it appears that there is more opposition than support and that there are many issues that need to be resolved before any decision is made. Glenn Smith stated that he is all for this. As a business owner he understands the need for rental housing in Marble. Judy Morande stated that there is a deed restriction on the property that states there can only be one residence on the 3.5 acre lot. Kendall said that he has reviewed the title and there is not such a deed restriction in the title policy. He knows that Hank has said that he has this but Hank has not supplied it. Todd Magarin asked if there is anywhere in Marble zoned for this type of project. He feels that this is spot zoning that will set a precedent for the entire town. Legal counsel has stated that this is not spot zoning. Kendall explained that this is not a rezoning application because this is already a residential zoned. This is a Use by Review for the residential zone. Kendall said that any other application for a Use by Review is a case by case basis. Spot zoning implies rezoning of a piece of land. If the application is approved it is still residential. Todd stated that he feels this is commercial. Kendall said that renting is not considered a commercial use – it is still residential. Todd stated that he was only allowed to build one house on his property and wanted to know why he was not allowed to. Kendall said that he is not familiar with the case and could not comment. Martha Roberts stated that Ryan is

making enemies and he needs to work with people to get this resolved. Steve Lucht is confused as to why the rules are changing. He feels that this would be multifamily compound vs a multifamily structure (duplex, triplex) and is spot zoning. He feels that a real town means following existing rules, regulations and zoning as well as listening to your neighbors. Public comment was closed.

Commission: Tim Hunter said that he is impressed with the efforts made in putting this together and the response to concerns. He still has reservations in going away from the Master Plan. He has definite concerns about the road and that the Town needs to do their part in taking care of the road. He has measured the road and it varies from 9-14' in width. Larry Good said it is good to hear everyone's thoughts so he can get a sense of the group's thinking. His biggest concern for the future and the possibility of this becoming short term rentals and he would like to see this addressed if project is approved. He said that the rules did change in 2000 and some are looking at the 1998 rules. The road is another strong concern and this will be a high dollar item. As far as setting a precedent if the project is approved, this is in specific context of Ryan's application. There is a need for housing and rental housing in the community. He feels that five units would be a great thing for the community. Because every application will be reviewed in its own context, this does not set a precedent. Mike Yellico feels that there is a need for affordable housing. The ordinances changed in 2000. He said that the whole community is not opposed to the project. He is not ready to make a decision on this project, but knows there is a need for affordable housing. Tim asked Andi about the changes made in response to the survey. She said that one cabin was moved to meet set back recommendations. Will stated that if we were doing a use review that he knew was impacting the neighbors but had a benefit for the community (i.e., school/firehouse) he would support it. He agrees that the town needs affordable housing, but does not see the benefit to the town to change the use of this property. He is as concerned about the impact as any of the other neighbors and he is not in favor of it. He is concerned about noise, dust and the road. Mike Yellico stated that Ryan could, in theory, build 3 houses. He had to buy out his neighbor so that he could have an acre to build. He understands the concerns of the neighbors but does not feel like they cannot prevent a property owner from building. Will said that he feels this has gone on long enough and it is time to make a recommendation. He said that they have four options: a. continue public hearing to next month; b. approve as presented; c. approve with modifications such as 3 units with 3 septic systems or d. deny. By denying it gives Ryan ability to redesign and come back with a different proposal. Larry would like to move forward with some modifications and conditions for approval. Will said that this would give direction to the discussion. Mike suggests continuing the discussion until next month so that there can be discussion of conditions and modifications. Mike said that the amount of disinformation is hard to sort from facts, particularly in relation to the 1998 codes that are no longer in effect. He would like to see a revised, smaller project with 3-4 cabins. But it is not realistic to expect the town to not grow. He would like to continue the planning commission meeting to next month. Larry asked about a stakeholder's meeting and Will responded that it was not up to them to make decisions. He asked if Ryan was receptive to the idea of modification to get approval or if he was set on five units. Ryan responded that there would be much thought that would need to go into such a decision, including the cost of building, tap fees, water main extensions, etc. He said that he needs to build as efficiently as possible. He feels that five cabins vs larger homes would have less impact. He explained that he employs 40 people and he won't be able to keep restaurant open without housing. Road will be improved. .

E. Adjourn Town of Marble Planning Commission – Tim Hunter moved that this be continued to next month. Mike Yellico seconded and the motion passed. The meeting of the Marble Planning Commission was adjourned at 8:07 p.m.

F. Call to order & roll call for the Meeting of the Town of Marble Water Board The meeting was called to order by Mayor Will Handville at 8:15 p.m. Present: Will Handville, Tim Hunter, Larry Good , Mike Yellico. Also present: Ron Leach, Town Clerk. and Terry Langley, minutes,

a. Consider approval of Resolution No. 2 Series 2017 re: water assessment & payment, Ron – explained that the MWB needed to set the water fee of \$130 per parcel for this year. These funds would be used toward the \$20,000.00 payment for water tank improvements. Mike Yellico made a motion to approve the resolution. Tim Hunter seconded and the motion passed.

G. Adjourn Town of Marble Water Board - Mike Yellico moved that the meeting of the Town of Marble Water Board be adjourned. Larry Good seconded and the motion passed. The meeting was adjourned at 8:17 p.m.

H. Call to order & roll call of the Meeting of Board of Trustees - The meeting was called to order by Will Handville at 8:18 p.m. Present: Will Handville, Tim Hunter, Larry Good , Mike Yellico. Also present: Ron Leach, Town Clerk, and Terry Langley, minutes.

I. Approve previous minutes – Mike Yellico moved that the minutes be approved. Larry Good seconded and the motion passed.

J. Mayor's Comments – Will Handville reminded everyone that the meeting was to be conducted with respect and dignity.

a. Discussion re: Richard Wells resignation, Will – Will said that Richard had resigned the day after the last meeting. This comes at a very inopportune time. He asked that the website show that we are looking for applications or letter from anyone interested in running. Will said finding someone who is neutral on current issues would be the goal. This would be an appointment until next election. If no one steps forward, they will try to recruit. Steve Lucht asked, if there is more than one applicant would the town appoint one or hold election? Will said that, if this was the case, he would ask the attorney which option to pursue. The last time this happened, one was appointed from two applications. The qualifications state that the applicant must have lived in town for year and be registered voter. Steve asked about the legality of the 2nd qualification and that will be asked of the attorney. Steve Finn asked about having Richard rejoining as the best case scenario. Will wants Richard to understand that sitting on the council doesn't mean you always get your way but bringing an issue to the table is a good thing. Ron needs to hold off on the website until Will talks to Richard. Larry recommends making an appointment if Richard declines.

b. Discussion re: campground status, Will – Will stated that the campground opened Memorial Day weekend with soft opening with 6 or 7 sites rented. Problems identified include water breaks, electrical, bath problems, and registration problems. These have been fixed. The town has an agreement with the HUB to take reservations and payments. Currently, there is a

need for a camp host due to the limited hours at the HUB. Currently the HUB runs a check at 7:00 am. The campground is on a nationwide internet reservation service. There is an ad in paper for a host and they started getting applications the 2nd day. This is not compensated. They will stay for the season and will be asked to clean bathrooms and to deal with trash and problem campers. Ad will run for a week, applications will be reviewed, and a host chosen. Fees are \$35; \$45, \$65 depending on size and hook ups. Ron described the repairs done to the building: needed roof repair, including rafters needed replacing, also the deck was decayed, the handicap ramp needed repair and the floor fallen off 3-4" on north side. Repairs by Mario – roof, deck, jacked floor up, porch & ramp - \$18,000. Last year's repairs included sewer and the propane tank. Total for both years are \$45000 for camp & building. Steve Finn made security bars and Ron thanked him for that. Will said that the stay limit of 14 days. Campground fees will go into a separate bank account for on line. Martha asked if the campground would be fenced? It is currently fenced but a bear may have broken fence. There are plans for privacy fence once the campground is out of red. Terry Langley asked about a site map and that some online sites show the campground as closed. Emma said they are working on that and that the website is a work in progress at marblecamping.com. Ryan asked about compensation to HUB and was told that there would 20/80 split. There will be a legal contract for one year. Glenn asked which paper the help wanted ad is in – Post Independent.

K. Clerk Report

a. Current bills payable 6/1/17, Ron – assets 274,193.59 as of May 31. This includes most of the campground expenditures. Revenues received are \$11,525. Expenditures total \$46,442, including the \$20,000.00 for tank payment. There are two additional bills to be paid tonight are to the plumber at the camp for \$2313.62 and \$400 to Mountain Fuel Wood for firewood for camp. Mike Yellico made the motion to pay the bills as listed. Tim Hunter seconded and the motion passed.

b. Discussion re: 2016 audit, Ron – The audit report it is on website.

c. Other

L. Current Land Use Issues

a. Discussion re: Savage business license continued, Will – Larry Good recused himself. Requirements made of Vince included parking, noise and OWT issues. Vince outlined his response in a package provided to the council. He understands the safety aspect regarding live fires and will place a sign regarding size of fires and no fires during red flag times. Ron asked that Vince get a burn permit from the fire station for open fires. Noise policy: Vince has researched software that measures the decibel level that notifies him immediately when noise goes over the limit. They will then be shut down. There will also be signage regarding loud noise. Parking is now on-site and is part of the reservation information. OWTS – He has found that the septic can handle groups of 55. For events over that, they will provide porta johns. These will handle up to 240 people. Tim Hunter moved that the business license be issued. Mike Yellico seconded and the motion passed.

b. Discussion re: Petrocco alley access request continued, Will – Tony Petrocco submitted a request to open alley for equipment access. He agreed to postpone the date due to a request for wedding in gazebo. Pastor Jon Stovall said that the couple had decided to have their wedding in the church and that the church has decided to move the gazebo or tear it down, If anyone wants it, they can have it for moving it.

c. Other

M. Old Business

a. Discussion re: court system status, Will – there is no further information because work on the campground meant that Will had had no time to talk to judge.

b. Discussion re: meeting with Marble Water Company representatives, Will - The representatives are in attendance and a date will be set after the meeting tonight.

c. Discussion re: regarding fuel leak status, Mike – Initial testing shows the leak is not affecting groundwater and is located in a narrow band beneath the fire station.

d. Discussion re: cleanup day & schedule of attendants 6/2 – 6/4, Tim – Tim Hunter has scheduled two 40-yard dumpsters to be located below the fire station. Standard landfill regulations will apply – no solvents, paint, electronics, tires, etc. He will ask for id to make sure residents only. Will asked for discussion on the id requirement. Mike said that he would like to see ids Steve Finn stated that many nonresidents volunteer for the town and he feels that the sphere of influence goes beyond the limits. Tim explained that he was only trying to be responsible with Marble tax money and is willing to follow the town's direction. Steve suggested that Saturday be for residents only and Sunday be open to others if there is room. Larry stated that community goes beyond borders for cleanup purposes. Charlie Manus explained ways to legally dispose of solvents at the South Canyon landfill by putting them in cat litter or straw.

e. Other – Steve Finn asked about the proposed no parking signs due to troubles getting through the road near the restaurant. Will hopes to have those up within 2 weeks following a utility locate request. Speed bumps too. Discussion concerning placement and the timing of those decisions followed.

N. New Business

a. Consider approval of Slow Groovin' 2017 Liquor License renewal, Ron – This application needs a town signature. He said that he is not aware of complaints or alcohol related incidents. Mike reported seeing people standing in the road with alcohol. Mike Yellico made a motion to approve the liquor license. Martha Roberts asked about signs stating legal age requirements and alcohol leaving premises. Ryan said that signs regarding the legal age are posted as are signs that state “No alcohol past this point.” He said that the Liquor board had conducted an inspection and they

passed. Martha said that she knew that people left with alcohol because she was the one who did. Steve Finn asked if there was a requirement for a physical barrier to keep people with alcohol on the premises as required in Carbondale and Basalt. Ryan said that he will put up the agreed upon fence once the he receives the lease for the land. Steve Lucht reported that Gunnison County had dealt with three alcohol incidents tied to the restaurant in last two weeks. This was going to result in a larger law enforcement presence. Tim Hunter seconded the motion and it passed. Tim asked Ryan about placing a speed bump around the curve. Ryan is for anything that slows traffic.

- b. Other – Martha Roberts reported on a discussion she had with Will regarding the junk ordinance and his discussion with an attorney and a judge regarding the junk ordinance and the difficulty of deciding what junk is. She provided Webster’s definition of junk and trash. She has complained about E 3rd & E Main for years. Martha feels that Joe Brown is doing only what is required by insurance as far as cleaning up. She said that couches have now been placed near the old garage locations. She is concerned with the fire danger and the danger to wildlife that the junk presents.
- c. Steve Lucht asked a question about new building permits and the process in regard to being on the agenda. This is particularly in relation to a property on Hill Street. Will explained that the lot in question reportedly already has sewer and water and that the original building had burned down. This is then is grandfathered in and she is allowed to build.

O. Adjourn – Mike Yellico moved that the meeting be adjourned. Larry Good seconded and the motion passed. The meeting was adjourned at 9:30 p.m.

Respectfully submitted,
Terry Langley