

Minutes of the Town of Marble
Regular Meeting of the Board of Trustees
January 16th, 2020 7:00 P.M.

A. Call to order & roll call of the Regular Meeting of the Board of Trustees – Mayor Ryan Vinciguerra called the meeting to order at 7:03 p.m. Present: Ryan Vinciguerra, Tim Hunter, Charlie Manus, Emma Bielski and Larry Good. Also present: Ron Leach, Town Administrator and Terry Langley, minutes.

B. Approve previous minutes – Tim Hunter made a motion to approve the minutes. Larry Good seconded and the motion passed unanimously.

C. Mayor’s comments - none

D. Consider approval of Fire House lease, Carbondale & Rural Fire Protection District, Ron – Ron presented the final lease for approval. Rob Goodman reported that the Carbondale & Rural Fire Protection District Board of Directors approved the lease last week. Larry Good asked about the length of the lease – 99 years - and Rob said that this was often the length of governmental leases. Mark Chain explained that there are escape clauses if there was ever a need to vacate the lease. Emma Bielski made a motion to approve the lease. Larry Good seconded and the motion passed unanimously.

E. Administrator Report

a. Current bills payable January 9, 2020, Ron – Ron reported that the bills to be paid are listed in the packet. Larry Good made a motion to pay the bills as listed. Tim Hunter seconded and the motion passed unanimously.

F. Old Business

a. Continue Lawrence OWTS variance application appeal of denial, Chris Lawrence – Ryan reported that the Lawrences have changed their application to a repair request. Chris said that the existing outhouse is considered a septic system so they would like to bring the system up to code according to OWTS regulations. Paul Rutledge reported that this site is applicable under state statute for a repair and that can mean a total replacement. Ryan asked why this would exclude them from needing a variance. Chris said that a repair just needs to meet OWTS regulations and so does not need a variance. She said that to repair a system has nothing to do with a lot size. Ryan said that in order for a permit to be issued, whether replacement, repair or building, a variance would be required. Paul said a new system would need to meet land use, building and zoning requirements, but a repair to an existing system does not need to meet these. To make an existing system with an existing dwelling with existing usage compliant does not require a minimum lot size. You cannot take away usage of an existing dwelling. Ryan disagreed and feels that they do need a variance. He acknowledged that the town needs to make sure all systems within the town are compliant. He said that pit privies are not allowed in new construction and existing privies can be shut down under certain conditions. Paul said the intent is not to ignore the town codes. He said that, when a system can be designed to fit a lot, use or repair of a pit privy is not a valid alternative. Ryan said that does not negate town codes and requirements. Paul said that Regulation 43 says that new building and permits can be denied for undeveloped, but remedying a potential public health hazard in an existing noncompliant system, if the site can support a compliant system, the town has latitude to allow that. Paul said they are not asking for a variance because the

system can be installed in compliance. Ryan said that they reference variances on page 8 of their request. He quoted from the permitting findings “A new OWTS can be designed and installed in compliance with state regulation 43 and the adopted Town of Marble On-Site Wastewater Treatment System Regulations. Therefore with regard to application for an OWTS repair permit a request for a variance is not based on any specific OWTS design criteria but rather due to the local land use code language’s prohibition of a new OWTS permitting based on minimum lot size.” Ryan said that he feels they are sidestepping the issue. Paul said that the town can approve a variance, but it is not needed. Rick Lawrence reported that there are currently two systems on the property that are not compliant – the privy and the gray water. Paul said that a gray water system requires an approved usage and an approved septic system. Ryan said that there should be a cease and desist on the usage until the issues are settled. Some of these issues should have been dealt with at the time of purchase. He pointed out some inaccuracies in the packet, including paraphrasing the town attorney incorrectly. It does not address why they have changed their request to a repair. Existing pit privies are allowed. They did not follow transfer of ownership requirements in regard to septic systems and having it inspected. Chris stated that she did not think an outhouse was a septic system. Ryan said that to improve an existing system and bringing it up to compliance, they need to follow state and local guidelines and that town ordinances supersede state requirements and that lot size is included. They should have followed requirements for a transfer of ownership inspection and what would be needed to bring the system into compliance. Rick said that the only reference to the transfer of title requirement is on the back of the OWTS application. Ron reported that both Jeff Bier and Chris were aware of the requirement. Paul said that the previous property owners contacted him and he told them they needed to replace the system. He submitted a design years ago. If it had been inspected the result would have been a need to replace the system. They submitted a new design for this owner. Ryan said that they did not follow regulations. Ryan said that the town cannot ignore the minimum lot size requirements. Paul said they feel that they are coming with a new proposal based on the OWTS regulations for existing dwellings with noncompliant systems and request for a repair permit and that this is a new process with a new request. Ryan feels that the minimum lot size does need to be followed and that a repair permit still needs to follow existing codes but, in fact, the proposal is not to repair but is to actually replace the system. Paul said that intent of the regulation is to allow approval without a minimum lot size. Discussion of repair/replacement followed. Paul asked that, whatever the process needs to be, the bottom line is what needs to be done to proceed? Ryan said that there would need to be another public hearing for a variance request with or without the repair permit application. Discussion of why the original variance could not be considered tonight followed. Chris asked that the board look at the hardship statement. Paul asked for guidance in what steps and applications should come next. In answer to a question for Larry Good, Paul reported that the privy would need extensive repairs and that this does not address the gray water problem. Larry said that the town needs to take another look at their regulations and codes, in light of the problems brought to light by this request. Ryan asked for input from the board. Tim Hunter asked if Chris had approached any surrounding properties concerning purchasing additional property. Chris reported that the property is bounded on three sides by roads. The fourth boundary adjoins Vince Savage’s property but she had not asked him. Larry said that the repair permit and the variance rules are intertwined. Charlie addressed the fact that Chris, as a realtor, should have known what they were getting into and that repair and replace are to different things. He asked about using the existing tank and pumping it. Paul said that it is not an option if an OWTS system can be installed.

Emma said that it is important for the board to follow proper procedures and that the variance request should be resubmitted. Mike Yellico, Tommy Russell and Jim Aarts spoke against the project.

b. Park Committee – Ryan reported that Amber has a list of names for people interested in serving on a park committee. She will be asking for information from those people as to why they are interested and what they have to offer. Once she has that, she will bring it to the board. Tim said that he wants to make sure that final decisions are still made by the board.

G. New Business

a. Consider approval of Resolution 1-2020 setting public posting place for Town of Marble – Larry Good made a motion to approve the posting place. Tim Hunter seconded and the motion passed unanimously. Emma said that other means of communication should be explored and developed.

b. Other – Tim Hunter reported that there would be a fire department membership drive and they are looking for volunteer fire fighting with training to be held here.

- Crystal River caucus – Ryan attended and there was considerable discussion regarding Penney Hot Springs.

- A citizen asked if East Hill Street is a public road as friends were told they were not allowed to use the road. The board affirmed that it is indeed a public road.

- Snow removal – Several reported that street plowing was blocking their driveways and that snow was being pushed up into driveways and on private property. Ron will contact the county.

- Old business – recycle center.

H. Adjourn - Larry Good made a motion to adjourn. Tim Hunter seconded and the motion passed unanimously. The meeting was adjourned at 8:33 p.m.

Respectfully submitted,

Terry Langley