

TOWN OF ERIE
BOARD OF TRUSTEES REGULAR MEETING 1
Tuesday, October 14, 2014
6:30 p.m.
Board Room, Erie Town Hall, 645 Holbrook, Erie, CO 80516

I. CALL MEETING TO ORDER

Mayor Pro Tem Gruber called the October 14, 2014 Regular Meeting of the Board of Trustees to order at 6:35 p.m.

II. PLEDGE OF ALLEGIANCE AND ROLL CALL

Roll Call:	Trustee Carroll	Present
	Trustee Schutt	Present
	Mayor Pro Tem Gruber	Present
	Trustee Moore	Present
	Trustee Charles	Present
	Trustee Woog	Absent/Excused
	Mayor Harris	Absent/Excused

III. APPROVAL OF THE AGENDA

Action: Trustee Charles moved to approve the October 14, 2014 agenda; the motion was seconded by Trustee Schutt. The motion carried with all present voting in favor thereof.

IV. CONSENT AGENDA

- a. Approval of the September 23, 2014 Meeting Minutes
- b. Approval of the September 25, 2014 Special Meeting Minutes
- c. Approval of the September 30, 2014 Special Meeting Minutes

Action: Trustee Schutt moved to approve the October 14, 2014 Consent Agenda; the motion was seconded by Trustee Carroll. The motion carried all present voting in favor thereof.

V. PUBLIC COMMENT

Douglas Emerson and Frank Banta, Boulder Valley Velodrome; asked the Board of Trustees for consideration on approval of Certificates of Occupancy so that they would be able to open for business.
Tim Gilbert, 125 Stearman Court, Erie, CO. commented on the Sierra Vista proposed rezoning.
Nick Ehrhart, 2183 Pinon Circle, Erie, CO. commented on the Sierra Vista proposed rezoning.
Jim Kinsinger, 940 Koss Street, Erie, CO. spoke in support of the Velodrome opening.
Scott & Trice McEwen, 2955 Pipe Drive, Erie, commented on the Sierra Vista proposed rezoning.
Brandi Scott, 842 Pope Dr., Erie, CO. expressed concerns regarding the proposed BVVSD School.
Frank Mueller, 842 Pope Dr., Erie, CO. expressed concerns regarding the proposed BVVSD School.
Melinda Hammers, 1902 Amethyst Dr., Longmont, CO. commented on the Sierra Vista proposed

VI. PROCLAMATIONS AND PRESENTATIONS

- a. **Certificate of Appreciation to Seth Anderson for his Eagle Scout Headstone Recording Project at Mount Pleasant Cemetery**
- b. **Boulder County Ballot Initiatives - Cindy Domenico, Boulder Commissioner, Boulder County requested support for their upcoming Ballot Issues 1A and 1B**

VII. RESOLUTIONS

The Boulder County Commissioners are asking for support of the County's two ballot initiatives:

- a. **Resolution 14-115; A Resolution of The Town Of Erie, Colorado, Supporting Boulder County's 2014 Ballot Measure Designated As 1A, A Countywide Flood Recovery Sales And Use Tax; And Setting Forth Details In Relation Thereto**
- b. **Resolution 14-116; A Resolution Supporting Boulder County's 2014 Ballot Measure Designated As 1B, Which Extends Boulder County's 0.9 Mill Ad Valorem Property Tax Mill Levy For Fifteen Years To And Including December 31, 2030; And Setting Forth Details In Relation Thereto**

Issue 1A provides for a 0.185% sales and use tax for a period of five years (for a total of \$49.6 million) to fund flood recovery. The sales tax amount equates to a little fewer than 2 cents on a \$10 purchase, or 18.5 cents on a \$100 purchase within Boulder County limits. The funds would be used to pay for the costs associated with immediate flood response, repair of public infrastructure, including permanent repairs to roads and bridges, and restoration of waterways, and assistance to county residents impacted by the 2013 Flood. In addition, these funds would be used to ensure Boulder County's readiness to respond to future disasters and emergency situations.

Issue 1B asks voters to extend a 0.9 mill ad valorem property tax for an additional term of 15 years to continue to fund crucial safety net services for Boulder County residents. The continued combination of increased need and decreased funding has made it challenging for Boulder County to meet the needs of its most vulnerable residents. The existing mill levy equates to about \$21 per year for a property valued at \$300,000, and generates about \$5 million each year to help provide for high quality services that promote family stability and ensure that people have access to the basic services that they need to get out of crisis and continue towards self-sufficiency.

Action: Trustee Charles moved to approve Resolution 14-115; the motion was seconded by Trustee Moore. The motion carried with all present voting in favor thereof.

Action: Trustee Moore moved to approve Resolution 14-116; the motion was seconded by Trustee Carroll. The motion carried with a three (3) for and two (2) against vote with Trustees Schutt and Charles voting no.

RESOLUTIONS (continued)

- c. **Resolution 14-117; A Resolution Approving A Memorandum Of Understanding Between The Town Of Erie And The St. Vrain Valley School District Re-1J For A School Resource Officer; And Setting for Details In Relation Thereto.**

The Erie Police Department in partnership with the St Vrain School District has provided a police officer to work in the St Vrain's District schools in Erie for the past several years. This resolution continues that partnership throughout the next school year from August 5, 2014 through May 22, 2015. Due to budget constraints the School District has requested that their share of the cost for the SRO be based on 50% of the current assigned school resource officer's wages for 9 months. This amounts to \$25,467.00. Currently the cost to the town of Erie for wages and benefits to provide an SRO is approximately \$70,900. One half (1/2) of that cost for 9 months would be approximately \$26,600. The School District has requested the amount they contribute be based on the wages of the current assigned officer for nine months.

Action: Trustee Charles moved to approve Resolution 14-117; the motion was seconded by Trustee Carroll. The motion carried with the following roll call vote:

Trustee Carroll	Yes
Trustee Schutt	Yes
Mayor Pro Tem Gruber	Yes
Trustee Moore	Yes
Trustee Charles	Yes

PUBLIC HEARINGS

- d. **Resolution 14-112: A Resolution of the Board of Trustees of the Town of Erie, Colorado Approving the Service Plan for the Wise Farm Metropolitan Districts No. 1 and 2.**

Marty Ostholthoff, Director of Community Development presented Staff recommendations for the approval of Resolution 14-112. The Town has received the Service Plan (Plan) for the Wise Farms Metropolitan District Nos. 1 and 2 (Districts). The Districts encompasses approximately 170 acres of land located south and west of the intersection of Jasper Road and North 119th Street. State Statute requires the Board of Trustees to approve the Plan by resolution of any special district organized within the municipal limits of the Town. This is a required step for the Districts to participate in the November 2014 Title 32 district election. The Board of Trustees adopted a special district ordinance and model service plan in June 2007. The special district ordinance was amended in 2013. The Plan has been submitted in accordance with the ordinance and amendment thereto. The Plan was submitted using the model service plan as a guide and the Districts have complied with the amended Town ordinance. The District will provide public improvements and services to a new residential community, Wise Farms. The Plan identifies improvements and services expected to be provided by the Districts, including on-going operation and maintenance services to be provided to property owners within the Districts. The Plan also describes how activities will be financed. The Plan identifies powers of the Districts as well as describes the limitations. In addition, disclosure of the District is included that advises potential property owners to investigate financing, servicing of indebtedness, etc.

RESOLUTIONS (continued)

Town staff and Dee Wisor, Special Counsel to the Town has reviewed the Plan and have found it to be in general compliance with the model service plan and the Town ordinance as amended. Approval of Plan does not constitute the Town's approval of any future development plan or zoning.

Action: Mayor Pro Tem Gruber opened the public hearing for Resolution 14-112 at 7:15 p.m.

Zachary White, Esq., of White Bear Ankele Tanaka & Waldron, attorneys on behalf of the applicant took the oath that the testimony and evidence he was about to give was true. Mr. White presented information and answered questions from the Board regarding the proposed Service Plan. Also providing testimony on behalf of the applicant was James Dullea, Jasper Land Development.

The following took the oath and provided public comment speaking against approval:

Kitt Wagner, 11810 Jasper Rd. (Unincorporated Boulder County).

Bernadette Pflug, 11852 Jasper Rd. (Unincorporated Boulder County).

Karl Volz, 11587 Jasper Rd. (Unincorporated Boulder County).

Charles Wagner, 11810 Jasper Rd. (Unincorporated Boulder County).

Action: Mayor Pro Tem Gruber closed the Public Hearing for Resolution 14-112 at 8:02 p.m.

Action: Mayor Pro Tem Gruber asked for a motion to approve Resolution 14-112. Hearing none; Trustee Schutt moved to direct staff to prepare a Resolution for the next regular meeting of the Town of Erie Board of Trustees denying approval of the proposed Wise Farms Service Plan. The motion was seconded by Trustee Carroll; the motion passed with a four (4) for and one (1) against vote, with Mayor Pro Tem Gruber voting no.

e. Resolution 14-113; A Resolution of the Board of Trustees of the Town of Erie, Colorado Approving the Service Plan for the Red Tail Ranch Metropolitan District

Marty Ostholthoff, Director of Community Development presented Staff recommendations for the approval of Resolution 14-112. The Town has received the Service Plan (Plan) for the Redtail Ranch Metropolitan District (District). The District encompasses approximately 294 acres of land located north and west of the intersection of Weld County Roads 4 and 5. State Statute requires the Board of Trustees to approve the Plan by resolution of any special district organized within the municipal limits of the Town. This is a required step for the District to participate in the November 2014 Title 32 district election. The Board of Trustees adopted a special district ordinance and model service plan in June 2007. The special district ordinance was amended in 2013. The Plan has been submitted in accordance with the ordinance and amendment thereto. The Plan was submitted using the model service plan as a guide and the Districts have complied with the amended Town ordinance. The District will provide public improvements and services to a new residential community, Redtail Ranch. The Plan identifies improvements and services expected to be provided by the District, including on-going operation and maintenance services to be provided to property owners within the District. The Plan also describes how activities will be financed. The Plan identifies powers of the District as well as describes the limitations. In addition, disclosure of the District is included that advises potential property owners to investigate financing, servicing of indebtedness, etc.

RESOLUTIONS (continued)

Town staff and Dee Wisor, Special Counsel to the Town has reviewed the Plan and have found it to be in general compliance with the model service plan and the Town ordinance as amended. Approval of Plan does not constitute the Town's approval of any future development plan or zoning.

Action: Mayor Pro Tem Gruber opened the public hearing for Resolution 14-113 at 8:05 p.m.

Jeffrey Erb, Esq., Seter & Vander Wall, P.C., attorneys on behalf of the applicant took the oath that the testimony and evidence he was about to give was true. Mr. Erb presented information and answered questions from the Board regarding the proposed Service Plan.

Action: Hearing no one wishing to make public comment on Resolution 14-113, Mayor Pro Tem Gruber closed the Public Hearing for Resolution 14-113 at 8:16 p.m.

Action: Mayor Pro Tem Gruber asked for a motion to approve Resolution 14-113. Hearing none; Trustee Schutt moved to direct staff to prepare a Resolution for the next regular meeting of the Town of Erie Board of Trustees denying approval of the proposed Wise Farms Service Plan. The motion was seconded by Trustee Carroll; the motion passed with a four (4) for and one (1) against vote, with Mayor Pro Tem Gruber voting no.

VIII. ORDINANCES

- a. **Ordinance 35-2014; An Ordinance Of The Town Of Erie, Colorado Amending Title 4, "Business Regulations," Of The Erie Municipal Code Of The Town Of Erie, Colorado By Adding A New Chapter 11, "Retail Marijuana Business Prohibition," Prohibiting Marijuana Cultivation Facilities, Marijuana Product Manufacturing Facilities, Marijuana Testing Facilities, And Retail Marijuana Stores In The Town; And, Setting Forth Details In Relation Thereto.**

Colorado voters approved an amendment to the State Constitution, Article XVIII, Section 16, which allows in part for the retail sale and cultivation of marijuana in the State of Colorado, Article XVIII, Section 16, of the Colorado Constitution authorizes local governments, such as the Town of Erie, to "prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities or retail marijuana stores through the enactment of an ordinance. Ordinance 35-2014 amends Title 4, "Business Regulations," of the Erie Municipal Code of the Town of Erie, Colorado by adding Chapter 11, "Retail Marijuana Business Prohibition,"

Action: This was the First Reading of Ordinance 35-2014 and it will be brought back for Board action at the October 28, 2014 regular meeting.

- b. **Ordinance 33-2014; An Ordinance of the Town Of Erie, Colorado Rezoning the Sierra Vista Property Pursuant to the Petition of the Owner Thereof, from HR – High Density Residential and CC – Community Commercial to LR – Low Density Residential and CC – Community Commercial; and Providing for the Effective Date of this Ordinance; and Setting Forth Details in Relation Thereto**

ORDINANCES (continued)

Todd Bjerkaas, Planner, presented staff recommendations for the approval of Ordinance 33-2014. Staff finds the application in compliance with the Rezoning approval criteria and recommends the Board of Trustees approve the Sierra Vista Rezoning application by approving Ordinance 33-2014 at the Second Reading on Tuesday, October 14, 2014. The Planning Commission held a public hearing for the Rezoning request on September 3, 2014. The Planning Commission recommended approval of the Rezoning by approving Resolution P14-17, with the following conditions: Technical corrections to the Sierra Vista Zoning Map shall be made to the Town's satisfaction. Mayor Harris opened the public hearing.

Action: Mayor Pro Tem Gruber called for a break at 8:23 p.m. and reconvened the meeting at 8:38 p.m.

Action: At the request of the applicant, Mayor Pro Tem Gruber moved to continue this agenda item to the November 11, 2014 Regular Meeting of the Town of Erie Board of Trustees; the motion was seconded Trustee Schutt. The motion carried with all present voting in favor thereof.

IX. LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES

CANYON CREEK FILING 5 TRACT B PLANNED DEVELOPMENT

PUBLIC HEARING

- a. **Ordinance 34-2014; An Ordinance Of The Town Of Erie, Colorado, Approving Canyon Creek PD Amendment No. 7; Making Findings Supporting Canyon Creek PD Amendment No. 7; And, Setting Forth Details In Relation Thereto.**

Debra Bachelder, Senior Planner presented staff recommendations for the approval of Ordinance 34-2014. Tract B of Canyon Creek Subdivision Filing No. 5 was originally designated in the PD zoning as a day care site exclusively. In Canyon Creek PD Amendment No. 6, which was approved by the Town in 2012, Tract B was granted expanded uses by adding permitted housing options of duplex, townhome, stacked tri-plex/quad-plex, and manor home that would not exceed 13 dwelling units. The applicant agreed to restrict the height of dwelling units to a maximum of 25 feet in PD Amendment No. 6. The Town's standard height in most of our residential zoning districts is 35 feet. Canyon Creek PD Amendment No. 7 proposes to amend the lot setback requirements for this specific development only. Below is a chart that shows the current setbacks that are approved in Canyon Creek PD Amendment No. 6 compared to the proposed setbacks in PD Amendment No. 7: The proposed change included: Reduction in the front yard setback to the dwelling unit from 15 feet to 10 feet; Reduction in the side yard setback to a street from 10 feet to 5 feet; Reduction in the rear yard setback from 15 feet to 5 feet. The requested changes came about because the applicant is proposing to create duplex housing on small individual lots for each dwelling unit that is served with a common ownership alley for garage access and common open space outside the duplex lot on the front of each dwelling unit. By decreasing the setbacks they have increased the common areas that are part of common maintenance.

LAND DEVELOPMENT RESOLUTIONS AND ORDINANCES (continued)

Additionally, they have requested a note be added that states "Eaves are permitted to encroach into setback a maximum of two (2) feet. Window wells may encroach into the side yard setback a maximum of three (3) feet." This encroachment will only apply to the Site Yard to Interior Lot Line setback. Canyon Creek PD Amendment No. 7 was reviewed for conformance with Municipal Code, Title 10, UDC Section 10.7.23 C.9. Approval Criteria. Staff finds the application consistent with the PD Amendment approval criteria in Municipal Code Section 10.7.6 D.9 and recommends approval of the Canyon Creek PD Amendment No. 7 application on a second reading of the Ordinance. Staff has provided draft Ordinance 34-2014 approving the application for the Board of Trustees to consider.

- b. Resolution 14-114; A Resolution Making Certain Findings Of Fact And Conclusions Favorable to Canyon Creek Subdivision Filing No. 5, 1st Amendment Preliminary Plat; Imposing Conditions Of Approval; Approving The Canyon Creek Subdivision Filing No. 5, 1st Amendment Preliminary Plat With Conditions; And Setting Forth Details In Relation Thereto.**

Debra Bachelder, Senior Planner presented staff recommendations for the approval of Resolution 14-114. Staff finds the application consistent with the Preliminary Plat approval criteria in Municipal Code, Section 10.7.7.C.10, and recommends approval of the Canyon Creek Subdivision Filing No. 5, 1st Amendment Preliminary Plat application. Staff has provided Resolution 14-114, for Board of Trustee consideration, approving the application with the following conditions: Canyon Creek PD Amendment No. 7, that modifies the lot setback requirements to allow the duplex development proposed in the Preliminary Plat, shall be approved and recorded before the Preliminary Plat approval comes into effect. The Planning Commission held a public hearing for the Canyon Creek Subdivision Filing No. 5, 1st Amendment Preliminary Plat application on September 17, 2014. The Planning Commission recommended conditional approval to the Board of Trustees, on a 6 to 0 vote, of Canyon Creek Subdivision Filing No. 5, 1st Amendment Preliminary Plat by approving Resolution P14-19 with conditions. To coincide with Board Action on Ordinance 34-2014 staff is requesting a continuance of Resolution 14-114 to the October 28, 2014 regular meeting of the Board of Trustees.

Action: Mayor Pro Tem Gruber opened the public hearing for Ordinance 34-3014 and Resolution 14-114 at 8:39 p.m.

Reid Phillips, Colorado Brown Investments, 111 W. Canyon Way, Lafayette, CO., owner and applicant took the oath that the testimony and evidence he was about to give was true. Mr. Phillips presented information and answered questions from the Board regarding the amendments.

The following took the oath and provided public comment:
Glenn Murray; 601 N. Beshear, Erie, CO.

Action: Mayor Pro Tem Gruber closed the public hearing for Ordinance 34-3014 and Resolution 14-114 at 9:05 p.m. This was the first reading for Ordinance 34-2014 and it will be returned for Board action at the October 28, 2014 regular meeting of the Board of Trustees.

Action: Trustee Schutt moved to continue Resolution 14-114 to the October 28, 2014 regular meeting of the Board of Trustees, the motion was seconded by Trustee Charles. The motion carried with all present voting in favor thereof.

X. GENERAL BUSINESS

a. Budget Study Session

- Impact Fees
- Cemetery
- Urban Renewal Authority
- Conservation Trust
- Fines & Forfeitures

Action: Following a presentation by Steve Felten, Director of Finance the Board directed staff to include funding in the 2015 Budget for repairs to the Coal Creek Trail crossing.

XI. BOARD OF TRUSTEES REPORTS

Trustee Moore asked staff about drainage issue at Candlelight Ridge. Deputy Public Works Director Russell Pennington noted that a surveyor was going to be on sight on Wednesday or Thursday of this week. Trustee Moore also spoke in support of the Velodrome and what would happen if the Town issued a Certificate of Occupancy to make it safe. Mayor Pro Tem noted that the Board could defer on the completion of Bonnell Avenue and their landscaping.

Action: Trustee Moore asked to direct staff to come back with a delineated list and a visual concept of what is required at this time from the Velodrome to issue a certificate of occupancy; the consensus of the Board was to have the applicant bring a financial plan of the elements they want abatement on.

Trustee Carroll commented on the proposed Boulder Valley School and asked if Orchard Glen residents would be allowed privacy fencing if they backed up to the school. Marty Ostholthoff, Director of Community Development noted that all fencing on open space is by code four feet in height. Trustee Carroll also asked about notification to the Board on site plan applications.

Trustee Charles also commented on the proposed Boulder Valley School. Trustee Charles reported to the Board that the first meeting of Art in Historic Places in Erie Ad Hoc Committee met and will keep the Board updated on their progress.

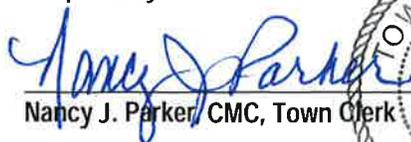
Trustee Schutt noted that the Platypus Papers is applying for a grant and asked for people to vote for them online.

XII. ADJOURNMENT

Action: Trustee Moore moved to adjourn the October 14, 2014 Regular Meeting of the Town of Erie Board of Trustees; the motion was seconded by Trustee Charles. The motion carried with all present voting in favor thereof.

Action: Mayor Pro Tem Gruber adjourned the October 14, 2014 Regular Meeting of the Town of Erie Board of Trustees at 10:37 p.m.

Respectfully Submitted,


Nancy J. Parker, CMC, Town Clerk




Mark Gruber-Mayor Pro Tem