TOWN OF ERIE
BOARD OF TRUSTEES REGULAR MEETING 1
Tuesday, August 12, 2014
6:30 p.m.
Board Room, Erie Town Hall, 645 Holbrook, Erie, CO 80516

I. CALL MEETING TO ORDER

Mayor Harris called the August 12, 2014 Regular Meeting of the Board of Trustees to order at 6:30 p.m.

II. PLEDGE OF ALLEGIANCE AND ROLL CALL

Roll Call:	Trustee Kramer	Present
	Trustee Schutt	Present
	Mayor Pro Tem Gruber	Present
	Trustee Moore	Present
	Trustee Charles	Present
	Trustee Woog	Present
	Mayor Harris	Present

III. APPROVAL OF THE AGENDA

Action: Trustee Schutt moved to approve the August 12, 2014 Agenda; the motion was seconded by Trustee Charles. The motion carried with all present voting in favor thereof.

IV. CONSENT AGENDA

a. Approval of the July 22, 2014 Meeting Minutes

b. Ordinance 29-2014; An Ordinance of the Town of Erie, Colorado to Vacate a Portion of Weld County Road 3 in Colliers Hill Subdivision; and Setting Forth Details in Relation Thereto (FIRST READING)

c. Resolution 14-83; A Resolution Supporting the Issuance of a Request for Qualifications (RFQ) for the Historic Downtown Erie Public Art Project

d. Resolution 14-84; A Resolution of the Town of Erie, Colorado Authorizing the Purchase of a Tool Cat from Bobcat of the Rockies

e. Resolution 14-93; A Resolution Authorizing The Town of Erie To Enter Into An Agreement With First Southwest Company for The Provision Of Debt Advisory Services

CONSENT AGENDA (continued)

Action: **Trustee Kramer moved to approve the August 12, 2014 Consent Agenda as amended; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with the following roll call vote:**

Roll Call:	**Mayor Pro Tem Gruber**	**Yes**
	Trustee Schutt	**Yes**
	Trustee Kramer	**Yes**
	Trustee Moore	**Yes**
	Trustee Woog	**Yes**
	Trustee Charles	**Yes**
	Mayor Harris	**Yes**

V. PUBLIC COMMENT

Gary Wetzbarger, 1969 Seidler Court, Erie, CO. provided the Board with an update of the Arts Coalition of Erie update of activities.
Darrel Rankin, 2134 Alpine, Drive, Erie, Co. spoke on behalf of the Arts Coalition of Erie.

VI. RESOLUTIONS (This agenda items is for all matters that should be decided by resolutions.)

Action: **Prior to the Public Hearing Mayor Harris made the following statement to the audience:**

- **The Board of Trustees would like to proactively address the oil and gas operations issues being considered during the public hearing this evening by defining our authority, and proposing a better way forward.**

- **First off, I'd like you all to know that the entire Board of Trustees and I value your opinions and look forward to hearing your concerns this evening. We understand it is frustrating to be told that the Board of Trustees cannot discuss any particular application with you, as it is a part of the quasi-judicial process. By law, all applications whether they involve a residential or commercial development or an oil and gas site, go through the same process and are subject to the same laws. Beyond the sketch plan phase of the application process, the Board of Trustees cannot engage in any discussions about pending applications until they review an application in the scheduled public hearing. By law, we must act like judges, coming into these hearings open minded and uninfluenced; there to listen to the facts and judge applications based solely on the ability to meet the approval criteria as laid out in our unified development code. There can be no predispositions or personal beliefs brought into this process.**

RESOLUTIONS (continued)

- **As municipal representatives, there are some issues in which we have authority and others where we do not. According to the Colorado State Constitution, oil & gas operations are regulated by the state. The State issues oil and gas permits. There are only four criteria with which the town is allowed to regulate. The four criteria are:**

  1. **Evaluating whether the setbacks to existing structures as set by the State, currently at 500 feet are met.**
  2. **The access roads**
  3. **The fencing and**
  4. **The color of the operational facilities**

  Through the public hearing process as we are doing tonight, the town is required to assess applications based on these four criteria alone.

- **As such, the scope of tonight's public hearing is limited to our authority on this issue. The Board will consider EnCana's applications based solely on whether or not the applications meet the four criteria as set forth in our Code.**

PUBLIC HEARING

a. **Resolution 14-86; A Resolution of the Town of Erie, Colorado for Consideration of the Special Review Use for the EnCana Pratt Wells**

b. **Resolution 14-87; A Resolution of the Town of Erie, Colorado for Consideration of the Site Plan for the EnCana Pratt Wells**

c. **Resolution 14-88; A Resolution of the Town of Erie, Colorado for Consideration of the Special Review Use for the EnCana Waste Connections Wells**

d. **Resolution 14-89; A Resolution of the Town of Erie, Colorado for the Consideration of the Site Plan for the EnCana Waste Connections Wells**

Action: **Mayor Harris opened the Public Hearing for Resolution 14-86; Resolution 14-87; Resolution 14-88 and Resolution 14-89 at 7:44 p.m.**

Marty Ostholthoff, Director of Community Development presented staff recommendations for the approval of Resolution 14-86; Resolution 14-87; Resolution 14-88 and Resolution 14-89. Staff finds the Special Review Use application and the Site Plan application for the Pratt 4B-29H-P168, 4C-29H-P168, 4D-29H-P168, 4E-29H-P168, 4F-29H-P168, 4G-29H-P168 Well Site in compliance with the Approval Criteria and recommends the Board of Trustees approve the application by adopting Resolution No. 14-86 and Resolution 14-87 with the following conditions:
a. Prior to construction a Grading and Stormwater Quality Permit shall be obtained from the Town.
b. Prior to construction a Right of Way Permit shall be obtained from the Town.
c. A burrowing owl survey will be required if prairie dogs are euthanized or colonies are disturbed by proposed pad development or drilling between March 15th and October 31st. The applicant shall use the

RESOLUTIONS/PUBLIC HEARING (continued)

recommended Survey Protocol and Actions in Protecting Nesting burrowing owls from Colorado Parks and Wildlife.
d. Abandoned flow lines shall be removed, by the operator, at the Town's discretion.
Staff finds the Special Review Use application and the Site Plan application for the for the Waste Connections 3A-29H-M168, 3B-29H-M168, 3C-29H-M168, 3D-29H-M168, 3E-29H-M168, 3F-29H-M168, 3G-29H-M168 Well Site in compliance with the Approval Criteria and recommends the Board of Trustees approve the application by adopting Resolution No. 14-88 with the following conditions:
a. Prior to construction a Grading and Stormwater Quality Permit shall be obtained from the Town.
b. Prior to construction a Right of Way Permit shall be obtained from the Town.
c. A burrowing owl survey will be required if prairie dogs are euthanized or colonies are disturbed by proposed pad development or drilling between March 15th and October 31st. The applicant shall use the recommended Survey Protocol and Actions in Protecting Nesting burrowing owls from Colorado Parks and Wildlife.
d. Abandoned flow lines shall be removed, by the operator, at the Town's discretion.

Action: Mayor Harris gave the following oath to persons wishing to address the Board of Trustees on this matter: Do you swear or affirm that the evidence and testimony that you are about to give is true?"

Applicant Presentation:

Miracle Pfister of EnCana Oil & Gas (USA) Inc. 370 17th Street, Suite 1700, Denver, CO 80202. Provided a Power Point Presentation on this agenda item and answered questions from the Board of Trustees.

PUBLIC COMMENT

Speaking Against the Proposed Wells:

Joseph Zintel, 1761 Crestview Lane, Erie, CO.
Kelly O'Neil, 1315 Catalpa Place, Erie, CO.
Parker McManes, 1662 Crestview Lane, Erie, CO.
Sacha Mace, 1402 Catlpa Place. Erie, CO.
Angela Waldrop, 1751 Crestview Lane, Erie, CO.
Dalton Waldrop, 1751 Crestview Lane, Erie, CO.
Mike Martinez, 2463 Reserve St., Erie, CO.
Melissa Jaure, 2463 Reserve St., Erie, CO.
Christine Emerson, 1600 Alpine Drive, Erie, CO.
Liz Fischer, 635 Moffat Street, Erie, CO.
Katy D'Arcy, 2804 Primrose Lane, Erie, CO.
Geri Nelson, 1371 Catalpa Place, Erie, CO.
Pat Taylor, 2839 Prince Circle, Erie, CO.
Steve Berg, 900 Taylor Lane, Erie, CO.
Tim Kennedy, 1465 Hickory Court, Erie, CO.
Jennifer Fick, 1778 Parkdale Circle N., Erie, CO.
Marcos Martinez, 2265 Dogwood Circle, Erie, CO.

RESOLUTIONS/PUBLIC HEARING (continued)

Spoke on Behalf of the Proposed Wells:

Al Linton, 6060 Foxhill Drive, Longmont, CO.

Action: Mayor Harris called for a break at 8:07 p.m. and reconvened the meeting at 8:25 p.m.

Action: Following Board discussion and questions the Board directed staff to add condition e. to the Site Plan Resolutions:

To the maximum extent practicable, EnCana Oil & Gas USA, Inc. shall minimize truck traffic on the Erie Parkway to WCR 5 haul route between the hours of 6:30am to 8:30am and between the hours of 2:00pm and 4:00pm during the school year.

Action: Mayor Harris closed the Public Hearing for Resolution 14-86; Resolution 14-87; Resolution 14-88 and Resolution 14-89 at 9:44 p.m.

Action: Trustee Moore moved to approve Resolution 14-86 as amended; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with all present voting in favor thereof.

Action: Trustee Charles moved to approve Resolution 14-87; the motion was seconded by Trustee Kramer. The motion carried with all present voting in favor thereof.

Action: Mayor Pro Tem Gruber moved to approve Resolution 14-88 as amended; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with all present voting in favor thereof.

Action: Trustee Moore moved to approve Resolution 14-89; the motion was seconded by Schutt. The motion carried with all present voting in favor thereof.

Action: Mayor Harris read the following directive to Staff:

- Two years ago the Town successfully negotiated with oil & gas operators and the State to achieve the first Memorandums of Understanding or MOU in Colorado. Those MOUs include requirements which at the time of their creation exceeded state rules and regulations and addressed concerns regarding public health and safety impacts. We were the first! The fact that the State incorporated the key element of our MOU's, requiring Vapor Recovery Units or VRUs that significantly reduce gas production emissions into the revised 2013 regulations, added to Erie's recognition as a leader in addressing concerns on all sides of this debate.

- During the same time period, the BOT was instrumental in getting the CDPHE, the Colorado Department of Health & Environment to conduct air quality testing & analysis, downwind from an active drilling and fracking operation in Erie. The findings and independent analysis of that study are enlightening and relevant to tonight's proceedings, and are published for your use on the Town's website.

RESOLUTIONS/PUBLIC HEARING (continued)

- I believe the Town got it right in 2012 when we worked with oil and gas operators to establish MOU's that exceeded state standards. Erie's approach is one that:
  ✓is protective of human health and the environment;
  ✓takes into consideration private property rights;
  ✓does not seek to preempt the state's regulatory authority;
  ✓does not support the distribution of false information; and
  ✓does not advocate for any specific industry or issues-based organization.

- Since the time the MOUs were originally negotiated the regulatory landscape has changed. As a result this Board considers it the right time to bring the oil and gas operators back to the table, to discuss improvements to the MOU's regarding existing state rules and regulations and public health and safety impacts in Erie, and specifically address the process by which gas well locations are chosen within the Town of Erie. Therefore speaking on behalf of the Board of Trustees, we direct staff to open said negotiations as quickly as possible and report the results back to us in not more than 90 days from today.

- In closing, The Board will continue to hold the oil and gas operators accountable to the conditions of the current MOU's while discussions to amend and update them are ongoing. At the end of this process it is our expectation to deliver to you, our friends, neighbors and residents, a greater degree of environmental protection and safety, and in the future, enhanced gas well setbacks from Erie homes.

Action: Mayor Harris called for a break at 10:00 p.m. and reconvened the meeting at 10:05 p.m.

e. Resolution 14-90; A Resolution of the Town of Erie, Colorado for Consideration of the Special Review Use for Erie Convair

Todd Bjerkaas, Senior Planner presented staff recommendations for the approval of Resolution 14-90. The applicant is requesting approval of a light industrial use in an existing 2,500 square foot hangar at 3000 Airport Drive. The business, CML RW Security, would use the unit to store, test and assemble electronic components they use in their custom security systems. The hangar would also be used to store a plane of one of the business's executives during visits. Some employee work stations are anticipated within the hangar. All uses would be located entirely within the unit. Title 10; Table 3-1 'Table of Permitted Uses' of the Municipal Code indicates that a Light Industrial use is a Special Review Use in the Airport zone district. A Light Industrial Use is defined in the UDC as "A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing."

Action: Mayor Harris opened the Public Hearing for Resolution 14-90 at 10:07 p.m.

RESOLUTIONS/PUBLIC HEARING (continued)

Action: **Mayor Harris gave the following oath to persons wishing to address the Board of Trustees on this matter: Do you swear or affirm that the evidence and testimony that you are about to give is true?"**

Public Comment

Ed Byrne 250 Arapahoe Road, Boulder, Colorado, spoke on behalf of the applicant in favor of approval of Resolution 14-90.

Action: **Hearing no one else wishing to make public comment Mayor Harris closed the public hearing for Resolution 14-90 at 10:53 p.m.**

Action: **Mayor Pro Tem Gruber moved to approve Resolution 14-90; the motion was seconded by Trustee Charles. The motion carried with all present voting in favor thereof.**

f. **Resolution 14-91; A Resolution Authorizing the Town of Erie, Colorado To Enter Into A Purchase and Sale Agreement for the Purchase of Real Property Located at 325 Wells Street, Erie, Colorado and Authorizing and Directing the Appropriate Town Officers to Sign Said Purchase and Sale Agreement; And, Setting Forth Details In Relation Thereto**

A.J. Krieger, Town Administrator, presented staff recommendations for the approval of Resolution 14-91. The Town recently concluded negotiations with the owner ofthe property located at 325 Wells Street, Erie, Colorado for potential acquisition of the property. The purchase price of the property is $255,000.00. This price was determined to be within an acceptable range relative to comparable sales. Approval of the Agreement will allow the Town to proceed with expansion of the municipal campus - specifically, creating additional parking for staff and visitors to Town Hall and Historic Downtown Erie.

Action: **Following Board discussion Mayor Harris moved to approve Resolution 14-91; the motion was seconded by Mayor Pro Tem Gruber. The motion failed with the following roll call vote:**

Mayor Pro Tem Gruber	Yes
Trustee Schutt	Yes
Trustee Kramer	No
Trustee Moore	No
Trustee Woog	No
Trustee Charles	No
Mayor Harris	Yes

RESOLUTIONS/PUBLIC HEARING (continued)

Action: Mayor Harris opened the Public Hearing for Resolution 14-92 at 10:45 p.m.

g. Resolution 14-92; A Resolution Providing for the Supplemental Appropriation of Money to Various Funds In The Amounts and for the Purposes Set Forth Below, for the Town of Erie, Colorado, for the 2014 Budget Year

Steve Felten, Director of Finance presented Staff recommendations for the approval of Resolution 14-92.The Town of Erie adopted the 2014 Budget on December 10, 2013. At least twice yearly, staff reviews the adopted budget and year-to-date actual revenues and expenditures. Based on these reviews, staff requests supplemental appropriations to update the budget to reflect actual revenues and expenditures of the prior and current year, year-to-date Board of Trustee actions, and projected revenues and expenditures for the remaining fiscal year. The 2014 Supplemental Appropriation Request for August represents staffs conservative and prudent estimates for providing on-going, quality services to customers for 2014. Although some data is presented as the total of all funds, each fund is independent of the other funds. Fund Balances: We do not anticipate any negative fund balances in the requested 2014 Supplemental Appropriation Request for August. The beginning fund balances of the Supplemental Appropriation have been updated to reflect the actual ending fund balances (working capital in the case of enterprise (funds) from 2013. Revenues: This Supplemental Appropriation includes total revenues amounting to $48.4 million, an increase of $8.8 million over the 2014 Adopted Budget. Accounting for the majority of this increase are proceeds from the bonds issued to construct the public safety facility of $6.5 million and reimbursements of $l.5 million, mostly arising from flood-related funds from FEMA and the State of Colorado. Additional information on these revenue changes can be found in the attached memorandum and detail of changes. Expenditures: The Supplemental Appropriation includes expenditures amounting to $64.1 million in all funds (of which $33.5 million are for capital expenditures). This represents an increase of $14.6 million in expenditures over the 2014 Adopted Budget, of which $14.1 million are for capital expenditures. This increase reflects additional appropriation requests amounting to $7.1 million. (including $6.3 million related to the new public safety facility), rollovers from 2013 of $5.8 million and $1.6 million in additional requests already approved by the Board (of which $1.0 million is related to flood repairs and $0.2 million for bond issuance costs).

Action: Mayor Harris opened the public hearing for Resolution 14-92 at 10:45 p.m., hearing no one wishing to make public comment Mayor Harris closed the public hearing at 10:53 p.m.

Action: Following Board discussion Trustee Schutt moved to approve Resolution 14-92; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with the following roll call vote:

Mayor Pro Tem Gruber	**Yes**
Trustee Schutt	**Yes**
Trustee Kramer	**Yes**
Trustee Moore	**Yes**
Trustee Woog	**Yes**
Trustee Charles	**Yes**
Mayor Harris	**Yes**

VII. ORDINANCES

a. Ordinance 30-2014; An Ordinance Authorizing The Town To Quitclaim And Transfer Certain Real Property To The Housing Authority Of The Town Of Erie; Setting Forth Details In Relation Thereto;

Steve Felten, Director of Finance presented Staff recommendations for the approval of Ordinance 30-2014. The Town of Erie Housing Authority originally obtained financing for construction of the current living units through the issuance of a bond in 2001. This bond was subsequently refinanced with a mortgage loan from Great Western Bank in 2004. The mortgage loan carries a rate of 4.50% and provides for monthly payments of $4,398.05 (based on a 30 year amortization period), but requires a balloon payment of approximately $685,000 on September 4,2014, the maturity date of the mortgage loan. At the April 8th Board meeting the Board approved the staffs request to authorize staff to enter into a six-month loan extension with Great Western Bank. At that time the terms of the loan extension were not known. In June 2014 the Town received the extension terms from the bank, which required a loan payment of approximately $200,000 in September. This was the first time there had been any indication from the bank that a partial pay down would be required for the extension. As a result, staff contacted Summit Bank and Trust to see if they could offer more favorable terms to refinance the loan. While the final details are still pending a completion of an appraisal, Summit has offered a two year refinancing period, with no pay-down on the loan. As proposed there would be two loans. One would be a real estate loan secured by the property, with the amount to be lent equal to 80% of the appraised value. This loan, with an estimated principal balance of $320,000 (pending the final appraisal), would carry the same rate as the current mortgage loan (4.50%) and be amortized over the same period. The second loan would be a cash-secured loan with a current estimated principal balance of $365,000 and carry an interest rate of 3.25%. Interest only payments would be required during the 2-year term. Total debt service on the two loans would be approximately $1,300 less than under the current mortgage. Summit's offer also gives the Town a full two years to accomplish the transfer of the property to Brothers Redevelopment. Great Western's offer will require yet another extension discussion in six months, as the length of their initial extension offer does not allow enough time to effect any transfer. In addition, while more cash will have to be transferred to the Housing Authority pursuant to Summit's extension offer, all the funds will stay within the Authority and be available in the future. As just stated, the Summit offer does require the Town's General Fund to advance/transfer approximately $365,000 to the Housing Authority, which is $165,000 more than the amount required to be paid to Great Western under their offer. But the difference of $165,000 would be returned to the Town upon transfer of the property to Brothers. The remaining $200,000 would be applied to the then outstanding loan balances to bring them down to an amount equal to the price Brothers will purchase the property pursuant to the option agreement approved by the Board on February 25, 2014.To minimize the amount of cash required to be transferred to the Authority to serve as collateral for the cash secured loan, through this ordinance staff is recommending the transfer of the underlying land currently owned by the Town to the Housing Authority. At the time of construction of the apartments in 1999-2000, the underlying land was owned by the Town and leased to the Authority for $1.00. By transferring the land to the Authority it will be able to pledge the land as collateral on the loan with Summit. Staff recommends that the Board of Trustees approve Ordinance 30-2014, authorizing the transfer of the land, as described in the ordinance, from the Town to the Housing Authority. This is the first reading of the ordinance so no action is required at this time. At the ordinance's second reading staff will request that it be passed by emergency to allow for closing of the loans prior to September 4,2014, when the Great Western loan matures. In addition, at the August 26th Board meeting staff will also bring a resolution to the Board and the Commissioners of the housing authority for approval of final terms of the loan refinancing with Summit Bank &Trust.

ORDINANCES (continued)

Action: This was the first reading of Ordinance 30-2014 and it will be brought back for Board action at the August 26, 2014 Regular Meeting of the Board of Trustees.

IX. BOARD OF TRUSTEES REPORTS

Trustee Schutt commented on the monthly building permits and that the Town had met its goal for July.
Trustee Moore noted that the Erie Community Center was starting yearly maintenance and would reopen Monday August 25th.
Trustee Charles noted the success of the recent Erie Air Fair.
Mayor Pro Tem Gruber asked about the bike lanes on Road 5 and was told by staff they had been completed. Mayor Pro Tem also noted a recent meeting with Open Space and Trails Board and the Erie Single Track.

X. EXECUTIVE SESSION

a. EXECUTIVE SESSION For discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; specifically, to discuss the position of Municipal Judge.

Action: Mayor Pro Tem Gruber moved to go into Executive Session for discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; specifically, to discuss the position of Municipal Judge. The motion was seconded by Trustee Kramer. The motion carried with all present voting in favor thereof.

Mayor Harris announced it's Tuesday, August 12, 2014, and the time is 11:05 p,m. For the record, I am the presiding officer, Mayor Tina Harris. As required by the Open Meetings Law, this executive session is being electronically recorded.

Also present at this executive session were the following persons:

Mayor Tina Harris; Mayor Pro Tem Mark Gruber; Trustees Jennifer Kramer, Scott Charles, Dan Woog, Janice Moore and Waylon Schutt and; Town Attorney Mark Shapiro;

This was an executive session for the following purpose:

For discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies

EXECUTIVE SESSION (continued)

that do not require the discussion of matters personal to particular employees; specifically, to discuss the position of Municipal Judge.

Upon completion of the Executive Session, Mayor Harris announced that the time is now 11:15 p.m. and the executive session has been concluded. The participants in the executive session were:

Mayor Tina Harris; Mayor Pro Tem Mark Gruber; Trustees Jennifer Kramer, Scott Charles, Dan Woog, Janice Moore and Waylon Schutt and; Town Attorney Mark Shapiro;

For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record.

Hearing none, Mayor Harris moved to the next agenda item.

XI. ADJOURNMENT

Action: Trustee Schutt moved to adjourn the August 12, 2014 Regular Meeting of the Town of Erie Board of Trustees; the motion was seconded by Mayor Pro Tem Gruber. The motion carried with all present voting in favor thereof.

Action: Mayor Harris adjourned the August 12, 2014 Regular Meeting of the Town of Erie Board of Trustees at 11:16 p.m.

Respectfully Submitted,

Nancy J. Parker, CMC, Town Clerk

TOWN OF ERIE CORPORATE SEAL COLORADO

Tina Harris, Mayor