



Minutes
Town of Blue River
Regular Meeting of the Board of Trustees
May 19, 2020
6:00 p.m.

Conferencing Access Information: <https://global.gotomeeting.com/join/763683909>
Join via phone at 1 877 568 4106, +1 (312) 757-3129 **Access Code:** 763-683-909

The May Meeting will not be open to the public. All citizens wishing to attend are asked to log into the virtual meeting.
If you are wishing to provide Citizen Comments or participate in the public hearings, please email Michelle Eddy, Town Manager at michelle@townofblueriver.org by 4:00 p.m. Monday, May 18th to receive additional information. Please also refer to our website for information on participating in the virtual meeting <https://townofblueriver.colorado.gov/town-info/meetings/guidelines-for-public-participation-in-virtual-public-hearings>

I. REGULAR MEETING OF THE BOARD OF TRUSTEES, 6:00 p.m.
II. CALL TO ORDER, ROLL CALL

- Mayor Babich called the Regular Meeting of the Board of Trustees to order at 6:05 p.m. The Trustees were present in person with public invited via recorded GoToMeeting.
 - Roll Call
 - Toby Babich
 - Dan Cleary
 - Joel Dixon
 - Kelly Finley
 - Mark Fossett
 - Ted Pilling
 - Ken Robertson
 - Also present: Town Manager/Clerk, Michelle Eddy. Town Attorney Robert Widner attended via GoToMeeting.

III. APPROVAL OF CONSENT AGENDA

- **MINUTES, April 21, 2020**
- **Approval of Bills-\$10,718.40**
 - Trustee Fossett moved and Trustee Pilling seconded to approve the consent agenda. Motion passed unanimously.

IV. COMMUNICATIONS TO TRUSTEES

This is an opportunity for Citizens to bring comments and questions to the Board of Trustees not being addressed in the Regular Meeting Agenda. Please limit comments to 3 minutes. Citizens are asked to approach the podium state their name and address for the record.
Please use the comments section on the meeting site to speak or ask a questions. You may also text your questions to (970) 406-2430.

- Citizen Comments (Non-Agenda Items Only)
 - No comments were received or presented. There were six residents listening and watching the meeting.
- Citizen Communications (letters & emails)

V. NEW BUSINESS

- Scholarship Presentations-6:01 p.m.

- Mayor Babich noted the awards ceremony had been cancelled this year. The Town of Blue River Awarded four \$750 scholarships. Certificates were presented to Samantha Cheek; and Timothy Gallagher. Benjamin Rider and Shannon O'Brien were not able to attend. The Mayor congratulated all graduating seniors.
- Public Hearing and Plat review/approval Lot 5 Louise Placer Subdivision-6:15 p.m.
 - Manager Eddy reviewed the process and events leading up to today.
 - Town Attorney reviewed the language and process and moving forward. He discussed process for the public hearing. He also reviewed what is to be considered in acceptance or denial of the application.
 - Mayor Babich opened the public hearing at 6:25 p.m.
 - Notice was given on how to attend the meeting. It was noted that Mr. Meiser, owner Lot 5 Louise Placer was not present for the meeting. The record from the Planning & Zoning meeting is referenced along with the application.
 - Mayor Babich asked about clarification of how the agenda item was listed for "approval". Town Attorney Widner stated no there was no issue as it meets the criteria for what is being considered. He also asked for clarification on application. Attorney Widner noted that unfortunately it was the only form available and what was struck out was old code that does not apply.
 - Mayor Babich asked for public comment.
 - Paul & Martie Semmer, Blue Grouse Trail. Referenced letter submitted and included in the packet.
 - It was noted that Mr. Semmer accessed the meeting from the information provided.
 - It was noted public comment was received and included in the packet.
 - Tyler Brook, Hwy 9. Spoke in opposition of the subdivision of the lot as it is in violation of the character of the Town. Mr. Brook also noted he used the link provided to access the meeting.
 - Mayor Babich closed the public hearing at 6:45 p.m.
 - Trustee discussion:
 - Review of the Planning & Zoning meeting and the vote that took place.
 - Noted that letters received were in opposition. Red, White and Blue stated no issue in service. The Engineer for the applicant noted no issue in the subdivision.
 - Discussion on the covenants. Noted that the Town cannot enforce private covenants. The owners within the subdivision would need to enforce the covenants. It was clarified that the Town allowing something that meets code but in against the covenants is not in violation of the owner's rights.
 - It was noted that approval or denial of an application cannot be based on the covenant.
 - Trustee Finley asked for clarification on Town Code and the language as it pertains to harmonious with neighbors. Attorney Widner noted that the land use is consistent with surrounding properties. For example, commercial next to commercial.
 - Trustee Finley asked for clarification on item 17-2-50 (a)(5). Attorney Widner noted that there is no evidence presented one way or the other so in this case it is neutral. He noted that the structure setbacks will dictate the construction and what is allowed. The building code minimum standards will determine what is allowed.
 - Trustee Cleary asked if the buildable area should be considered versus surrounding area and property value. Attorney Widner said that the code is the minimum size is 80,000 square feet and set backs are met, it meets the criteria. Factual evidence would need to be provided to show an effect on property value.
 - Trustee Dixon noted the harmonious objective of the Town and Town character should be considered as part of the land density. He noted that this doesn't fit the character of the subdivision

as it was developed. He stated he would vote to deny or approve with conditions as it does not fit the adjacent homeowners.

- Trustee Fossett noted it is the neighbors that will need to enforce the covenants.
- Trustee Robertson noted he doesn't disagree with Trustee Dixon's comments but it is important to be objective and if it meets the criteria and the code.
- Discussion that consideration must be made objectively and not subjectively.
- It was noted and discussed that the rules that apply at the time of the application are the rules that apply. If rules are changed later, then the application falls under the previous rules.
- Discussion that the Trustees need to review the criteria and decide if the application meets the criteria based on the evidence provided. It was noted that the application can be continued or approved with conditions.
- Town Attorney Widner reviewed what the Planning and Zoning Commission will be reviewing and approving on the final plat. They will be reviewing that it is consistent with the preliminary plat.
- Trustee Robertson moved and Trustee Fossett seconded to approve the preliminary plat of Lot 5 Louise Placer to be referred for final plat approval by Planning and Zoning Commission.
 - Under Discussion Trustee Dixon asked for conditions to be included including showing electrical, well and septic.
 - Trustee Fossett agreed with what was being said, however under the current code he has met the criteria.
 - Trustee Cleary noted that he objects due to violation of 17-2-50 (b)(4) as well as 17-2-50 (a)(5).
 - Trustee Dixon moved to amend the motion to allow approval with conditions and to consider 17-2-50 (b)(4). Conditions that it meets the criteria of 17-2-50 (b)(4) for review by Planning and Zoning. Trustee Cleary seconded motion as amended.
 - a.** Under discussion
 - i.** Trustee Fossett asked if approved with the condition how is it reviewed by Planning and Zoning and how do they consider this criteria. Attorney Widner noted it could be appealed by the applicant to the Board of Trustees.
 - ii.** Noted that it can be focused as to what should be specifically reviewed by Planning and Zoning versus the language included.
 - iii.** Trustee Robertson and Mayor Babich noted that Planning and Zoning have already considered this.
 - b.** Roll Call on the amended motion.
 - i.** Cleary-Yes
 - ii.** Dixon-Yes
 - iii.** Finley-No
 - iv.** Fossett-No
 - v.** Pilling-No
 - vi.** Robertson-No
 - vii.** Babich-No
 - viii.** Amendment failed.
 - c.** Roll call vote to approve the subdivision application as presented to be submitted for final review and approval to Planning and Zoning Commission.
 - i.** Cleary-No
 - ii.** Dixon-No
 - iii.** Finley-No

- iv. Fossett-Yes
 - v. Pilling-Yes
 - vi. Robertson-Yes
 - vii. Babich-Yes
 - viii. Motion passed
- Public Hearing/Second Reading Ordinance 2020-01 Subdivision Regulations Adoption
 - Mayor Babich opened the public hearing at 8:16 p.m.
 - Paul Semmer, Blue Grouse. Noted land within town boundaries that is owned by US Forest Service this zoning would have no jurisdiction. He noted the County has a “place holder” for agreements with Forest Service.
 - Attorney Widner noted this provision is for those owning property in the County adjacent to the Town, an intergovernmental agreement with the County to follow the Town regulations. He noted anything with the Forest Service would be outside the scope of this code.
 - Mayor Babich closed the public hearing at 8:23 p.m.
 - Trustee Discussion
 - Attorney Widner noted that the regulations as drafted would only allow owners to move a lot line, plat corrections or vacate a lot line. It will disallow the subdivision of lots.
 - It was clarified and discussed that all zoned lots regardless of zoning would not be allowed. It was noted that if there was an application that came forward seeking subdivision on a specified zone district (transitional, or planned residential development) this can be discussed and negotiated at that time. Discussion to allow specific non-residential zoned lots to rezone and subdivide. Decision to discuss and review at a later date.
 - Other than the language around banning subdivision there were no substantive changes from what was presented in March.
 - Trustee Cleary moved and Trustee Fossett seconded to approve Ordinance 2020-01 Subdivision Regulations. Motion passed unanimously.
- COVID-19 Updates
 - Manager Eddy provided updates and financial projections.
 - Resolution 2020-03 Requiring face masks
 - Discussion that the resolutions applies to Town Hall, Town Park and the Tarn.
 - Trustee Finley moved and Trustee Fossett seconded to approve Resolution 2020-01 Requiring Face Masks. Motion passed unanimously.
- Discussion on home occupations
 - Manager Eddy noted staff report and reviewed current conditions for discussion.
 - Discussion of proposed regulations and need for development of regulations for “home based” businesses.
 - Recommendation to draft ordinance based on the recommendations made in the staff report.

VI. REPORTS

- Mayor
 - Mayor Babich noted need to do some Board training and getting it scheduled. He asked for a doodle poll to be done.
- Trustees
 - Trails Committee-Trustee Fossett
 - Trustee Fossett noted there has not been a meeting. Next meeting will be in June.
 - Transit Authority-Trustee Pilling

- Trustee Pilling noted nothing new beyond the news including modifications of route and number of riders. He noted Geoff Guthrie is leaving for a position with CDOT.
- Wildfire Council-Trustee Dixon
 - No report.
- Planning & Zoning-Trustee Robertson
 - Nothing additional to report.
- Citizen Advisory Committee-Trustee Finley
 - Trustee Finley noted there has not been a meeting.
- Other Trustees Reports
 - Mayor Babich reported on the Recovery Tasks Force and current status. A variance application has been submitted. It is hoped to have a ruling on Friday addressing restaurants (May 25th) and lodging (June 1st).
- Department/Staff Reports
 - Manager Eddy noted applications received for Housing Helps. It was asked to modify requirements for notification based on Attorney advice and regulations noting, these are private transactions that cannot be objected.
 - Discussion to remove notification from criteria and modify space requirement to limit by subdivision. Noted to make guidelines vague and leave open as a guideline without a specific percent or number.
 - Trustee Robertson moved and Trustee Finley seconded to approve the Housing Helps applications for 107 Peaks View and 0049 Regal. Motion passed.
- Attorney's Report
 - No report.

VII. OTHER BUSINESS

VIII. Next Meeting, Tuesday, June 16, 2020

There being no further business before the Board, Trustee Fossett made a motion to adjourn the meeting. Trustee Robertson seconded the motion. Mayor Babich adjourned the regular meeting 9:16 p.m.

Respectfully Submitted:

Michelle Eddy, Town Clerk