

RICO TOWN BOARD MINUTES

June 20, 2018

The Regular Town Board meeting was called to order at 7:00 p.m. by Mayor ProTem Barbara Betts.

Members Present. Zach McManus/9:00, Barbara Betts, Sophia Kyriakakis, Keith Lindauer, Nicole Pieterse and Stephan Roberts. Absent was Genevieve Yellowman.

Staff Present. Kari Distefano and Linda Yellowman.

Guests Present. James Gregg, Larry Carver, Derek Padilla and Patrick/Forest Service, Jim Britton, Allen Svoboda, Don Wilson/Dolores County Deputy Sheriff and wife, Susan Robertson, Joe Croke, Kathy McJoynt and SGM Engineer.

Approval of the Agenda. The agenda for June 20, 2018 was presented for approval. Keith Lindauer made a motion to approve the agenda for June 20, 2018 as presented and seconded by Stephen Roberts. The motion passed unanimously.

Consent Agenda:

Approval of the Minutes. The Rico Town Board minutes for May 16, 2018 were presented for approval. Barbara Betts made a motion to approve the minutes as presented for May 16, 2018 and seconded by Sophia Kyriakakis. The motion passed unanimously.

Approval of the Monthly Bills. The Monthly bills for June 2018 were submitted for approval. Barbara Betts made a motion to approve paying the Monthly Bills for June 2018 as presented. Sophia Kyriakakis seconded the motion. The motion passed unanimously.

Approval of the Treasurer's Report.

Approval of the 2017 Audit. The 2017 audit was presented for approval. Nicole Pieterse made a motion to approve the 2017 Audit as presented. Seconded by Barbara Betts. The motion passed unanimously.

Citizens Communication. Town Manager Kari Distefano introduced Ryan Taylor as an intern and working for the Town of Rico.

Derek Padilla/Forest Service gave an update on the two fires south of Rico.

The SGM engineers gave a report on the sewer study they were working on for Town of Rico.

Dolores County Deputy Sheriff Don Wilson introduced himself and mentioned he was running for Dolores County Sheriff.

The 4th of July 2018 event was briefly discussed.

Town Clerk. No report.

Public Works. No report.

Water Consultant. No report.

Parks & Recreation. No report.

Town Board Reports. No report.

Geothermal Committee. Barbara Betts mentioned the geothermal group tested 4 sites and at a later date the report will be available on the website.

Grant Writer. No report.

Town Manager's Report. Draft Water Tap Fee Revision. As per our discussion last month, Town Manager Kari Distefano is suggesting a revised water tap fee schedule. Ordinance 2008-2 increased water tap fees from previous Ordinance No. 317 in February of 1996. Currently the tap fee schedule is as follows: ¾ inch water tap-8,500, 1 inch water tap-10,000, 1 ¼ inch water tap-12,000, 1 ½ inch water tap-15,000 and 2 inch water tap-18,000.

The ¾ inch tap is the size typically used for single-family residences in Rico. Tap size is based on how many fixtures and appliances exist in a building. Because income from tap fees in Rico is irregular, money from tap fees goes into a capital improvements fund rather than the regular operating fund, which is fueled by the monthly user fees.

In 2017 revenues from water user fees was \$121,911.88. The cost of normal operations including the water tank inspection and some tank repairs was \$115,825.08. This did not include the waterline replacement in the southern portion of Argentine Alley. Money for that repair came from the capital improvement expenses, which again comes from tap fees. It is worth noting that the town retired a debit in May, that was costing the Town \$2,200.00 per year and the town will be retiring another one in September that is costing \$2,463.80 per year.

What the Town Manager Kari Distefano believes should be considered when the town decides whether or not to lower tap fees, is whether the expense of tap fees discouraging building and whether the additional money the town gains is worth the possibility that potential builders may look elsewhere.

What peer communities charge has been discussed in the past but Mrs. Distefano has included the Colorado Municipal League report in this packet for the Boards convenience. The town staff based this suggestion on an average of fees for Cortez, Creede, Dolores, Nucla and Durango. ¾ inch water tap - \$5,000, 1 inch water tap - \$6,000, 1 ¼ inch water tap - \$7,000, 1 ½ inch water tap - \$9,000 and 2 inch water tap - \$10,500.

In an effort to prevent speculative purchases of taps, the ordinance can include language that attaches these fees to the purchase of a building permit. If the town doesn't think that is enough to discourage speculation, the town can add language that increases the tap fees back to previous level should the builder not get a certificate of occupancy within two years. The Board would like the staff to research the past tap fee purchases.

Action Items:

Adoption of Public Hearing Procedures When Before the Board of Trustees or Board of Adjustments. At this meeting, the Board of Trustees will be acting as the Board of Adjustment

and Appeals. In the packet is some language that is a reminder of the Public Hearing Procedures for quasi-judicial hearings. The town should adopt these procedures by motion. Keith Lindauer made a motion to adopt the public hearing procedures for the Board of Trustees or Board of Adjustments. Nicole Pieterse seconded the motion. Motion passed unanimously.

Adoption of Rico Emergency Operations Plan. Keith Keesling, the Dolores County mentioned at the last meeting that it was difficult to get Federal Disaster Relief without the existence of an Emergency Operations Plan. To that end, town staff has been working with him on one for not only Rico but also Dolores County. The town used Montezuma County and the Town of Dolores' plans as templates. There are many people involved in the Dolores County plan that need to approve and sign off and don't know where in that process they are. After talking to Mr. Keesling, the town decided just to go ahead with suggesting approval of the Rico Emergency Operating Plan with references to a draft Dolores County Plan. That way, the town would be covered in the unhappy event that the town would need federal assistance. A copy of both plans is included in the packet. Nicole Pieterse made a motion to approve the Adoption of Rico Emergency Operations and Resolution No. 2018-1. Seconded by Keith Lindauer. The motion passed unanimously. Comment was made that the Rico School should be considered as a shelter.

Discussion Items. None.

Keith Lindauer made a motion to adjourn the regular Town Board meeting and reconvene as the Board of Adjustments at 8:20 p.m. Seconded by Barbara Betts. The motion passed unanimously.

Agenda Town of Rico, Board of Adjustments

Call to Order at 8:20 p.m.

PUBLIC HEARING

Croke Variances: Lots 24-30, Block 3, Town of Rico

Mr. Joe Croke is proposing to build seven dwelling units on Lots 24-30, Block 3, Town of Rico. To accomplish this, he is seeking several variances. The Rico Planning Commission is authorized to review proposed variances and to make recommendations to the Rico Board of Adjustments. The Planning Commission recommended approval of all of his requests as long as he got the consent in writing from the Rico Fire Protection District for the side yard setback variances. The following is a list of variances that he would like to request from the Rico Board of Adjustments: 1. An exemption from the requirements of environmental development permits necessary to build on Lots 24 and 25, which lie in an avalanche hazard. 2. Exemptions from the seven-foot side yard setbacks, which are required in commercial areas. These setback dimensions do not appear on the site plan but they scale at 2 ½ feet so there would be a setback reduction of 4 ½ feet. 3. Reduction of the five-foot rear yard setback to three feet. 4. An exemption from Town of Rico Ordinance No. 2008-2, which requires that \$8,500.00 be paid for each water tap. 5. An agreement with the Town of Rico to allow fill dirt to be placed on the Town of Rico property lying to the west of Lots 24-30.

Mr. Croke explains in the narrative included in the packet why he is requesting these variances. His application is also included in the packet. For the Boards convenience, Mrs. Distefano has included the following standards for review from the Rico Land Use Code.

Regarding the avalanche path, the Town Manager agreed with Mr. Croke when this issue first came up, that the avalanche hazard map should be updated. To that end, the town hired Chris Wilbur, the engineer who provided Rico with the original hazard maps, to update them. In the revised report, which is included in the packet for the board to review, portions of Lots 27-30 and all of Lots 25 and 26 lie in an area described as "very low hazard *yellow* zone defined for dense flowing avalanches with return periods of greater than 300 years and for infrequent powder avalanches with very low pressure (<kPa) and return periods greater than 30 years. This zone is advisory and mitigation is not generally required except for critical facilities". A portion of Lot 24 lies in the "moderate or *blue* hazard zone defined as areas with average return periods of between 30 and 300 years". The recommendation for the blue zone is that occupied structures should be designed for avalanche impact loads. No critical facilities should be built in this zone.

The setback regulations in the commercial zones are somewhat inconsistent with the fact that smaller lots (2,500 square feet) are allowed in these zones. The existing setback requirements reduce the square footage of a lot in the commercial zone to 11'x73' square feet. This is an inadequate area for most structures. Concerns about snow sliding off roofs could be mitigated with snow guards. Efforts should be made to reduce the cookie-cutter appearance of the buildings.

With the exception of Telluride, which charges \$20,000, Rico's water tap fees are higher than those in neighboring towns and what could be considered peer communities. Cortez charges \$6,285, Dolores charges \$5,500, Nucla charges \$4,000 and Durango charges \$5,733. It is important to note that tap fees in Rico are so infrequent that we cannot depend on them to offset maintenance costs. Maintenance costs comes from user fees. While the town understands the concern about speculators buying up cheaper tap fees, requiring the purchase of the tap fee to be made with the payment of a building permit could mitigate that situation.

Nicole Pieterse made a motion to approve the exemption requirements of environmental development permits necessary to build on Lots 24 and 25, which lies in an avalanche hazard. Seconded by Zach McManus. Motion passed unanimously.

Nicole Pieterse made a motion to approve exemptions from the seven-foot side yard setbacks, which are required in commercial areas. Seconded by Zach McManus. Motion passed unanimously.

Zach McManus made a motion to approve the reduction of the five-foot rear yard setback to three feet. Seconded by Barbara Betts. Motion passed unanimously.

Zach McManus made a motion to approve a waiver from Town of Rico Ordinance 2008-2, which requires that \$8,500.00 be paid for each tap water tap. Seconded by Nicole Pieterse. Motion passed unanimously.

Zach McManus made a motion to direct the Town Manager the agreement with the Town of Rico to allow fill dirt to be placed on the Town of Rico property lying to the west of Lots 24-30. Seconded by Stephan Roberts. Motion passed unanimously.

Keith Lindauer made a motion to adjourn the Board of Adjustments meeting and reconvene to the regular Town Board meeting. Seconded by Zach McManus. The motion passed unanimously.

Agenda
Town of Rico, Board of Trustees

The regular Town Board meeting was called back to order at 10:00 p.m.

PUBLIC HEARING

Kyle Minor Subdivision: Lot 21R, Smuggler Subdivision, Block 19, Town of Rico.

Donna Kyle, the applicant is proposing to subdivide Lot 21R, Smuggler Subdivision, Block 19, Town of Rico, which is a 15,000 square foot parcel into two smaller parcels, one being 10,000 and one being 5,000 square feet. The existing parcel was originally comprised of six 2,500 lots as parts of the old Rico Townsite. At some point, the original lot lines were vacated. Ms. Kyle would like to restore one of the original lot lines. A copy of her application is in the packet.

Based on historic documentation of a flood that is referenced several paragraphs down in the checklist, there was a lively conversation at the Rico Planning Commission meeting about whether or not it is appropriate to grant approval for this subdivision. Neighbors Susan Robertson and Jim Britton felt strongly that due to the existence of an underground tunnel that crosses the property, it would be a mistake to grant approval.

After about an hour of discussion, the Rico Planning Commission recommended conditional approval with the conditions being that geotechnical work to ensure that any excavation done would not cause the tunnel to collapse would be undertaken prior to issuing a building permit. A copy of the information about the flood is included in the packet.

The Rico Planning Commission also recommended that the gravel alley that encroaches on the lot be moved to the existing right-of-way to the east.

The Rico Land Use Code allows for the consolidation of the Conceptual, Preliminary and Final Plat review if the application does not require any extension of waterlines or any street improvements. The applicant may submit this minor subdivision for final approval. Town Manager Kari Distefano has reviewed the application according to the Minor Subdivision Review Check List.

Other Comments. Jay Milstead, the neighbor to the northwest had questions regarding the subdivision but no comments. Susan Robertson supplied information about the 1989 flood. She and Jim Britton expressed reservations about the property being developable. Gregg Anderson expressed concern about an additional building in the area obstructing view corridors.

After some discussion the Board of Trustees were in consensus to continue the application. More information and an engineer is needed in this project. Zach McManus made a motion that an input is needed from an engineer for Ms. Kyle's application regarding avoidance of unsuitable lands, site visit and special meeting. Seconded by Barbara Betts. The motion passed unanimously.

Second Reading of Ordinance No. 2018-02, an ordinance of the Town of Rico, concerning the ability to implement water restrictions and set forth penalties for non-compliance. Barbara Betts made a motion to approve the 2nd Reading of Ordinance No. 2018-02 as presented. Seconded by Zach McManus. Motion passed unanimously.

Second Reading of Ordinance No 2018-03, an Ordinance of the Town of Rico, Repealing and Replacing Ordinance No. 2014-06, Being the Licensing and Permitting of Retail Marijuana Establishments. Zach McManus made a motion to approve the 2nd Reading of Ordinance No.2018-03 as presented. Seconded by Keith Lindauer. Motion passed unanimously.

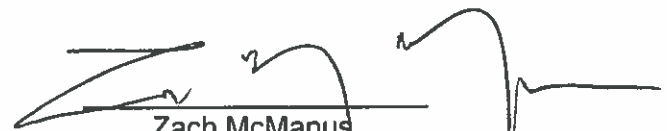
First Reading of Ordinance No. 2018-, an Ordinance by the Board of Trustees of the Town of Rico Adopting a Fee Schedule for Retail Marijuana Establishments within Town Boundaries. There is an Ordinance included in the packet so as soon as the town decides on the fees, the Town Board can enact on it. Suggestion was made to move this ordinance to next month's agenda.

The First Reading of Ordinance No. 2018-04, an Emergency Ordinance of the Town of Rico, Colorado, Adopting Fire Restrictions and Setting Forth Penalties for Any Violations. Zach McManus made a motion to approve the 1st Reading of Ordinance No. 2018-04 as presented. Seconded by Keith Lindauer. The motion passed unanimously.

Meeting adjourned at 10:30 pm.



Linda Yellowman
Rico Town Clerk



Zach McManus
Mayor