

Town of West Yellowstone

Tuesday, December 3, 2013

Povah Community Center

Town Council Meeting

7:00 PM

TOWN COUNCIL MEETING AGENDA

Pledge of Allegiance

Purchase Orders

Treasurer's/Securities Report

Claims *

Consent Agenda: **November 19, Town Council Meeting ***

Business License Applications

Advisory Board Report(s)

Operations Manager & Department Head Reports

Assignments Report

Council Comments

Public Comment Period

UNFINISHED BUSINESS

Police Commission Appointments *

Discussion/Action

NEW BUSINESS

Lease Agreement, Yellowstone Historic Center Office Space, UPDL *

Discussion/Action

Outside Amplification Permit, S'mores and More Evenings *

Discussion/Action

Resolution No. 642, Community Help Fund Budget Transfers *

Discussion/Action

Resolution No. 643, Uncollectable Ambulance Accounts *

Discussion/Action

Town Hall Open House/Holiday Party *

Discussion

Correspondence/FYI

Meeting Reminders

Adjournment



Policy No. 16 (Abbreviated)
Policy on Public Hearings and Conduct at Public Meetings

Public Hearing/Public Meeting

A public hearing is a formal opportunity for citizens to give their views to the Town Council for consideration in its decision making process on a specific issue. At a minimum, a public hearing shall provide for submission of both oral and written testimony for and against the action or matter at issue.

Oral Communication

It is the Council's goal that citizens resolve their complaints for service or regarding employees' performance at the staff level. However, it is recognized that citizens may from time to time believe it is necessary to speak to Town Council on matters of concern. Accordingly, Town Council expects any citizen to speak in a civil manner, with due respect for the decorum of the meeting, and with due respect for all persons attending.

- No member of the public shall be heard until recognized by the presiding officer.
- Public comments related to non-agenda items will only be heard during the Public Comment portion of the meeting unless the issue is a Public Hearing. Public comments specifically related to an agenda item will be heard immediately prior to the Council taking up the item for deliberation.
- Speakers must state their name for the record.
- Any citizen requesting to speak shall limit him or herself to matters of fact regarding the issue of concern.
- Comments should be limited to three (3) minutes unless prior approval by the presiding officer.
- If a representative is elected to speak for a group, the presiding officer may approve an increased time allotment.
- If a response from the Council or Board is requested by the speaker and cannot be made verbally at the Council or Board meeting, the speaker's concerns should be addressed in writing within two weeks.
- Personal attacks made publicly toward any citizen, council member, or town employees are not allowed. Citizens are encouraged to bring their complaints regarding employee performance through the supervisory chain of command.

Any member of the public interrupting Town Council proceedings, approaching the dais without permission, otherwise creating a disturbance, or failing to abide by these rules of procedure in addressing Town Council, shall be deemed to have disrupted a public meeting and, at the direction of the presiding officer, shall be removed from the meeting room by Police Department personnel or other agent designated by Town Council or Operations Manager.

General Town Council Meeting Information

- Regular Town Council meetings are held at 7:00 PM on the first and third Tuesdays of each month at the Povah Community Center located at 10 S. Geyser Street.
- Presently, informal Town Council work sessions are held at 7:30 AM on the first and third Tuesdays of each month and occasionally on other mornings and evenings. Work sessions also take place at the Povah Community Center located at 10 S. Geyser Street
- The schedule for Town Council meetings and work sessions is detailed on an agenda. The agenda is a list of business items to be considered at a meeting. Copies of agendas are available at the entrance to the meeting room.
- Agendas are always published at least 48 hours prior to Town Council meetings and work sessions. Agendas are posted at the Town Offices and at the Post Office. In addition, agendas are available online at the Town's website: www.townofwestyellowstone.com. Questions about the agenda may be directed to the Town Clerk at 646-7795.
- Official minutes of Town Council meetings are prepared and kept by the Town Clerk and are reviewed and approved by the Town Council. Copies of approved minutes are available at the Town Clerk's office or on the Town's website: www.townofwestyellowstone.com.

Adopted November 3, 2010, a complete copy of this policy is available at the Town Offices.

WEST YELLOWSTONE TOWN COUNCIL
Town Council Meeting
November 19, 2013

COUNCIL MEMBERS PRESENT: Mayor Jerry Johnson, Brad Schmier, and Doc Stewart (by speakerphone), John Costello and Tom Cherhoniak

OTHERS PRESENT: Operations Manager Becky Guay, Public Services Superintendent James Patterson, Social Services Director Jack Dittmann, Finance Director Lanie Gospodarek, Chief of Police Gordon Berger, County Commissioner Steve White, Newly Appointed Town Attorney Jane Mersen

The meeting is called to order by Mayor Jerry Johnson at 7:00 PM in the Povah Community Center

Portions of the meeting are being recorded.

The Treasurer's Report with corresponding banking transactions is on file at the Town Offices for public review during regular business hours.

ACTION TAKEN

- 1) Motion carried to approve Purchase Order #6208 for \$10,925.40 to purchase six new tires for the grader from Jake's Automotive. (Schmier, Cherhoniak)
- 2) Motion carried to approve payment of the claims, which total \$359,337.28. (Stewart, Cherhoniak)
- 3) Motion carried to approve the minutes of the November 5, 2013 Town Council Meeting and November 14, 2013 Work Session. (Cherhoniak, Schmier)
- 4) Motion carried to table the future of the clothing bank until the last meeting in January and assemble a committee to work with the Council on the issue. (Schmier, Chernoniak)
- 5) Motion carried to approve the MAP Fund recommendations for the Kids N Snow Events, \$5000, and Hebgen Lake Ice Fishing Tournament, \$3500.(Cherhoniak, Schmier)
- 6) Motion carried to appoint Bill Howell to a 5-year position on the Police Commission. (Stewart, Cherhoniak) Motion fails. Stewart votes in favor, Johnson, Schmier, Costello, and Cherhoniak votes against.
- 7) Motion carried to table the Police Commission appointments until the next regularly scheduled meeting. (Costello, Cherhoniak)
- 8) Motion carried to approve the request by the Hebgen Basin Rural Fire District to remodel Station 1 at 400 Yellowstone Avenue. (Cherhoniak, Schmier)
- 9) Motion carried to approve the legal services contract with the law firm of Kasting, Kauffman, & Mersen, P.C. to provide legal counsel for the Town of West Yellowstone for a period of two years. (Stewart, Cherhoniak)

Council Comments

Cherhoniak asks if the Thanksgiving baskets are being delivered or picked up. Dittmann answers that they will be actually be picked up by the recipients. Johnson says that he has discussed combining the annual employee Christmas party with an open house for the new Town Hall. He says they also should think about the grocery store gift certificates they usually give to the employees at Christmas and if they are going to do that this year. Schmier commends Patterson for getting the sledding hill in the city park started already thanks to the recent snowstorm. Ed Geiger asks what items the foodbank is short to fill the Thanksgiving baskets. Dittmann says they can use anything, but whatever they do not have they will be able to get from the Gallatin Valley foodbank on Sunday before the baskets are distributed next Monday. He specifies that they could use more stuffing, pumpkin pie mix, potatoes, and turkeys.

Public Comment Period

No public comment is received.

DISCUSSION

- 1) Mayor Johnson explains that the purchase order that was approved at the previous meeting was only for four tires, but the grader requires six. Patterson solicited new bids and determined that the best price was actually from Jake's Automotive, a local vendor.

- 4) The Council discusses the future of the clothing bank. Guay says that the recommendation from the Department Heads is to move the clothing bank back into the Union Pacific Dining Lodge. She suggests that the Council table this issue until the first meeting in February so they do not have it coming up on every agenda until then. The Council agrees to discuss the issue before making a motion. Cherhoniak says that he supports moving the clothing bank back into the UPDL. Costello says he has put some thought into this and talked to several people. He suggests that they close the clothing bank down on April 1, 2014. He then proposes reopening it on October 1, 2014 in the basement of the Town Hall, staffed by volunteers, and stock only winter clothing, boots, etc. He says they should investigate installing an electronic "stair-chair" to make access to the basement ADA compliant, which his research indicates will cost between \$2700 and \$4200. Schmier says that is a very interesting proposal. Stewart says that it is unfortunate that in a community with five churches there is not a volunteer organization that will take it over. He agrees that it does not belong in the UPDL and should be in the Town Hall as originally intended. Johnson says that he has also talked to several people and there are a lot of people that agree the Town should not be in the clothing business. He also cautions the group that if they push the decision out too far they may forget and they need to be sure to address it before April 1. Ed Geiger suggests putting together a committee of community leaders to discuss the issue and come up with a solution. The group discusses the issue at length. Fire Chief Scott Waldron says that there are two organizations in the area that are very good at this, GoodWill in Bozeman and Deseret Industries in Rexburg. He asks if they have ever looked into or asked one of those organizations to oversee the project.

- 6) Mayor Johnson asks the Council if they would like to discuss the appointments to the Police Commission individually or as a package. Cherhoniak says as a package, Costello says he doesn't want to approve any of them yet and would like to discuss it first, and Schmier says he would like to consider them individually. Stewart says they should also consider the applicants individually and points out that they need to determine which applicant will take which term. Stewart motions, seconded by Cherhoniak, to appoint Howell. Costello says they have advertised for less than two weeks for Police Commissioners and says that he thinks they should delay making these appointments until the next meeting, to give the public a little longer to consider applying. Schmier says he thinks they have three good applicants but doesn't see a problem with waiting another couple weeks and finding out how long of terms the applicants are interested in. Guay explains that they are currently advertising for a new police officer and the deadline is December 4, 2013. The motion fails and the Council is clear that their intention is to postpone these appointments until the first meeting in December in order to give the public a couple more weeks to apply.

- 8) Guay explains that the Hebgen Basin Rural Fire District is now occupying the space vacated by the Town Offices and would like to make improvements to the space. The estimated cost is in excess of \$10,000 and according to the lease, they must ask for permission from the Town before making the improvements. Johnson asks if the improvements need to be inspected. Patterson says he would like to look at it. Waldron explains that the Fire District employees expect to do most of the work except for the electrical.

- 9) Guay explains that Jane Mersen of Kasting, Kauffman, and Mersen was selected at the previous meeting to provide legal counsel for the Town. Guay summarizes the legal services contract that is on the agenda for approval this evening.

DISCUSSION

- A) Operations Manager and Department Head Reports: Operations Manager Becky Guay reports on current issues: **Town Hall Project** – We will be melting the snow and ice off the concrete entryway on the north side of the Town Hall, placing down a mat or carpet and sanding the walkway to help prevent unsafe conditions while allowing the public to access the building via that door. Crews sealed the grout and tile in the building foyer last week. Todd Barta will be installing additional electrical outlets and telephone jacks in the town offices and the courtroom. Liz and Jerry are working to get historic pictures of the town printed to hang on the walls. We have tentatively scheduled an open house/employee holiday party for Thursday evening, December 19. **UPDL Window Replacement Project** – Pre-construction meeting is scheduled for this Thursday, November 21 at 1:30 p.m. at the UPDL. **Parkway Drainage Improvements Project** – The contractor has completed all work for the winter. **Public Services** – Crews began plowing last Saturday and are ready for winter activities. The skating rink is in the process of being moved to Pioneer Park. We will pack and smooth snow to get a level base on which to place the rink liner. Lights and electrical outlets have been installed around the rink and kids sledding hill area and crews have blown snow onto the park that will be used to create the sledding hill. James reports that the recently-implemented weekly safety meetings are going well, are very informative, and have resulted in more safety awareness among the crew. **YHC Office Space Lease in UPDL** –The YHC has submitted a letter (Attachment A) requesting that the draft lease be modified to allow the YHC to lease both their current space in the “Rainbow Room” and also the “Court Room”. This item will be placed on the next Council agenda for discussion/action. **Discussions on Management of UPDL** – YHC has prepared a draft outline of its UPDL management proposal for review (Attachment B). We are attempting to schedule a meeting to begin negotiations. **Discussion with HBFD about Lease/Purchase of Emergency Services Building** – I’ve talked with the Fire Chief about scheduling a meeting to begin these discussions. **Police Department** – The Chief has prepared two more policies for review by the Town Attorney, officers, and MPEA including Partner/Family Member Assault and Complaints and Internal Investigations. The department will be holding expandable baton training sometime in December and, with the City of Bozeman Police Department, is co-sponsoring Partner/Family Assault and Prosecution training in West Yellowstone on January 29, 2014. We will pick up the new police SUV in Livingston later this week. **Social Services** – Staff will be preparing turkey baskets for at least 67 families this year, the most baskets ever. Delivery will take place on Monday, November 25. Social services is also assisting the United Women’s Club with the Christmas Star program to provide gifts for disadvantaged children.

The meeting is adjourned. (8:40 PM)

Mayor

ATTEST:

Town Clerk

TOWN OF WEST YELLOWSTONE
MONTANA
naturally inviting!

PUBLIC NOTICE

Police Commission
Clothing Bank Ad Hoc Committee

The West Yellowstone Town Council is seeking an interested individual to serve on the Police Commission. Duties of a Police Commissioner include screening police officer applicants and hearing and deciding upon appeals brought by a police officer that has been disciplined, suspended, removed, or discharged. Police Commissioners are appointed by the Town Council for a term of three years.

The Town is also creating an ad hoc committee of interested citizens and Town employees to consider and create a recommendation for the future use and location of the Social Services clothing bank. This will be the committee's sole purpose and it will be dissolved following a final decision by the Town Council.

Interested individuals should complete and return the 'Application for Boards and Committees' which is available from the Town Offices, 440 Yellowstone Avenue, West Yellowstone, MT, or online at www.townofwestyellowstone.com. These positions are open until filled. For more information or to request an application by e-mail, please contact the Town Offices, 646-7795, or info@townofwestyellowstone.com.

Elizabeth Roos
Town Clerk





Received
11/13/13
AR

APPLICATION FOR BOARDS AND COMMITTEES

Name RICHARD L. GIBSON Date 11-12-2013

Address P.O. BX 8 (508 CASCADE AVE.)

City W. YELLOWSTONE State MT. Zip 59758

Phone (Home): 646-1139 (Work): _____ (Cell/Other): 530-906-8856

E-Mail Address: PNHASAP1@SYIX.COM

Are you a resident of West Yellowstone? YES Length of residency in West Yellowstone: 3 YRS

Board or Committee you are applying for: POLICE COMMISSION

Occupation: RETIRED POLICE SERGEANT

Employer: PART TIME PARK GUIDE (BUFFALO BUS TOURING CO.)

Have you previously served on a County or City board? NO

If so, which board, and for how long? _____

Past Memberships and Associations: AUBURN POLICE OFFICERS ASSOCIATION

CALIFORNIA NARCOTICS OFFICERS ASSOCIATION

Current Memberships and Associations: NAT. ASSOC. OF INTERPRETIVE GUIDES

List any relevant qualifications and/or related experience? Attach any additional information or a resumé, if you prefer: 26 YRS LAW ENFORCEMENT, 15 YRS POLICE SERGEANT

THROUGH OUT MY CAREER I TRAINED POLICE OFFICERS AND
WROTE PERFORMANCE EVALUATIONS FOR TRAINEES AND OFFICERS

What are your primary objectives for serving on this board? TO SERVE THIS COMMUNITY

References (Individual or Organization):

HEATHER JOHNSON Phone: 646-9564

SGT. DALE HUTCHINS Phone: (530) 823-4234

CHIEF NICHOLAS WILICK (CO.P. RET.) Phone: (916) 781-6273

Signature: [Signature] Date: 11-12-2013

Please return this application to the Town Offices at 10 S Faithful, West Yellowstone, Montana. An interview may be required if deemed necessary. Thank you in advance for your interest.

Received
10/29/13
gh



APPLICATION FOR BOARDS AND COMMITTEES

Name Bill Howell Date 10/29/2013

Address 817 N. Electric St

City West Yellowstone State Wt. Zip 59758

Phone (Home): 646-7475 (Work): _____ (Cell/Other): 640 7475

E-Mail Address: _____

Are you a resident of West Yellowstone? yes Length of residency in West Yellowstone: 39 yrs.

Board or Committee you are applying for: West Yellowstone Police Commission

Occupation: Business Person

Employer: Self employed

Have you previously served on a County or City board? yes

If so, which board, and for how long? West Yellowstone Police Commission (8 yrs.?) +

Past Memberships and Associations: West Yellowstone Planning Board 12yrs

Current Memberships and Associations: _____

List any relevant qualifications and/or related experience? Attach any additional information or a resumé, if you prefer:

member of Police reserve when started in the 80's + served for 30+ years

What are your primary objectives for serving on this board? To select the

best Police officer candidate available

References (Individual or Organization):

Jerry Johnson

Phone: 640 - 7000

Fred Schumier

Phone: 646 - 7735

Doc Stewart

Phone: 646 - 9467

Signature: Bill Howell

Date: 10/29/2013

Please return this application to the Town Offices at 10 S Faithful, West Yellowstone, Montana. An interview may be required if deemed necessary. Thank you in advance for your interest.



Received
11-13-13
GR

APPLICATION FOR BOARDS AND COMMITTEES

Name D. H. "Doc" DeTouan Date 11-13-2013

Address P.O. 2045

City West Yellowstone State MT Zip 59758

Phone (Home): _____ (Work): _____ (Cell/Other): 406-640-0063

E-Mail Address: Doc DeTouan@live.com

Are you a resident of West Yellowstone? yes Length of residency in West Yellowstone: 8 years

Board or Committee you are applying for: Police Comm

Occupation: Retired

Employer: _____

Have you previously served on a County or City board? yes

If so, which board, and for how long? Police - 6 years

Past Memberships and Associations: _____

Current Memberships and Associations: _____

List any relevant qualifications and/or related experience? Attach any additional information or a resumé, if you prefer: Foreman Deer Lodge Co. Deputy Sheriff

3.5 years Labor Advocate experience

What are your primary objectives for serving on this board? _____

Help with quality OFFICERS.

References (Individual or Organization):

Gordon Burger Phone: _____

Mike Klobtich Phone: _____

Greg Forsyth Phone: _____

Signature: Don A DeTouan Date: 11-13-2013

Please return this application to the Town Offices at 10 S Faithful, West Yellowstone, Montana. An interview may be required if deemed necessary. Thank you in advance for your interest.



Received
11-25-13
SA Greer

APPLICATION FOR BOARDS AND COMMITTEES

Name Greg W Forsythe Date 11/25/2013

Address 0520 Grayling PO Box 614

City WEST YELLOWSTONE State MT Zip 59758

Phone (Home): 406-640-1555 (Work): 406-646-4578 (Cell/Other): 406-640-1555

E-Mail Address: GFORSYTHE2@WYELLOWSTONE.COM

Are you a resident of West Yellowstone? YES Length of residency in West Yellowstone: 31 YEARS

Board or Committee you are applying for: POLICE COMMISSION

Occupation: WESTMANT BUILDING CENTER OWNER

Employer: " " "

Have you previously served on a County or City board? YES

If so, which board, and for how long? POLICE COMMISSION 1988-1994

Past Memberships and Associations: PUBLIC SAFETY COMMISSION - 2002-2013

Current Memberships and Associations: NONE

List any relevant qualifications and/or related experience? Attach any additional information or a resumé, if you prefer:

I believe I am well qualified.

What are your primary objectives for serving on this board? I am very interested

in our Police Department and its

operation.
Applying for 3 year term.

References (Individual or Organization):

John Costello

Phone: 406-640-1413

AGATA MURPHY

Phone: 406-646-0555

James Patterson

Phone: 208-891-8038

Signature: Greg W Forsythe

Date: 11/25/2013

Please return this application to the Town Offices at 10 S Faithful, West Yellowstone, Montana. An interview may be required if deemed necessary. Thank you in advance for your interest.



Received
11-26-13
ER

APPLICATION FOR BOARDS AND COMMITTEES

Name TIMOTHY HEIDEMAN Date 11-20-13

Address P.O. Box 982

City W. YELLOWSTONE State MT Zip 59758

Phone (Home): 406-646-7112 (Work): 406-539-7111 (Cell/Other): _____

E-Mail Address: TNHEIDEMAN@MSN.COM

Are you a resident of West Yellowstone? YES Length of residency in West Yellowstone: 20 YRS

Board or Committee you are applying for: POLICE

Occupation: CONTRACTOR

Employer: SELF

Have you previously served on a County or City board? YES

If so, which board, and for how long? SIGN ORDINANCE & JUDGE

Past Memberships and Associations: _____

Current Memberships and Associations: _____

List any relevant qualifications and/or related experience? Attach any additional information or a resumé, if you prefer: _____

What are your primary objectives for serving on this board? _____

TO SEE THAT QUALIFIED PEOPLE ARE GIVEN EQUAL CHANCE TO SERVE OUR COMMUNITY

References (Individual or Organization):

JAMES PATTERSON Phone: 646-9074

ROBERT GODWIN Phone: 646-9578

ROBBIE HERMANSON Phone: 646-1102

Signature: [Signature] Date: 11-25-13

Please return this application to the Town Offices at 10 S Faithful, West Yellowstone, Montana. An interview may be required if deemed necessary. Thank you in advance for your interest.

KASTING, KAUFFMAN & MERSEN, P.C.
A T T O R N E Y S A T L A W

KENT M. KASTING
JOHN M. KAUFFMAN
JANE MERSEN
DENNIS L. MUNSON
LILIA N. TYRRELL

716 SOUTH 20th AVENUE, SUITE 101
BOZEMAN, MONTANA 59718
TEL: (406) 586-4383 FAX: (406) 587-7871
E-MAIL: kkm@kkmlaw.net

Of Counsel
WILLIAM B. HANSON

November 26, 2013

Ms. Rebecca Guay
TOWN OF WEST YELLOWSTONE
P.O. Box 1570
West Yellowstone, MT 59758

Via: electronic mail only: rguay@townofwestyellowstone.com

RE: Police Commission Appointments

Dear Ms. Guay,

This letter is in response to your question about whether a sitting town council member can serve on the police commission at the same time. I have reviewed the statutes and the cases that I can find on the matter. I can find no case specifically on point and although §7-32-4151, MCA, does not specifically preclude it, it is my opinion that a sitting council member should not be appointed to the police commission for the reasons set forth below.

Section 7-32-4151, MCA, provides, in part, that the Mayor shall nominate and with the consent of the city council, appoint three residents of the town to the police commission. Section 7-32-4152, MCA, provides, in part, that the city council sets the compensation of the police commission members. This means that the council member would be voting on him or herself for the appointment and also voting on their compensation.

The role of the police commission is set out in §7-32-4154 and 4155, MCA, which is to examine all applicants who have applied to be a member of the police force, to make rules regarding such examinations and to hear and decide appeals brought by any officer who has been disciplined, suspended, removed or discharged by an order of the Mayor, city manager or chief executive, in this case, the Operations Manager since West Yellowstone has adopted the Commission-Manager form of government in its Charter.

The police commission has the power to sustain, modify or overrule the disciplinary order of the Manager. §7-32-4160, MCA. The Manager also has the duty to enter an order enforcing the decision of the police commission and can affirm, modify or even veto the decision of the commission. *Raynes v. City of Great Falls*, 215 Mont. 114, 696 P.2d 423 (1985). Finally, a

Ms. Rebecca Guay
November 26, 2013
page 2

police officer can appeal the decision of the police commission to the district court, or can grieve the decision in accordance with the procedure contained in the collective bargaining agreement.

Reading these statutes in conjunction with each other, the potential for a conflict of interest is present as well as the appearance of impropriety. The council member would be in the position of approving his own nomination to the board and setting his own compensation, potentially a financial conflict

Further, the legislature appeared to intend that police commissions were to operate without the influence of party politics. The police commission is a board whose members are appointed by the Mayor and approved by the council, it is considered a public office and carries with it some import. "The police commission is established for the purpose of hiring, disciplining, and firing policemen. Sections 7-32-4154 to 4164, MCA. It is apparent that it is not a body of only advisory powers but that the intention of the legislature was to make it a body of considerable importance whose findings should have weight." *Goings v. City of Great Falls*, 112 Mont. 51, 112 P2d 1071 (1941).

The *Goings* Court also discussed the obvious intention of the legislature in enacting this provision which was to remove the police, as much as possible, from the influence of party politics, i.e. "To make their tenure secure so that it would not be necessary for police officers to consider the political effect of their various actions." *Id.* By having an elected council member on the board of the police commission, the legislative intent would be undermined.

Finally, I believe the practical effect of such a "dual" position could also be problematic. An aggrieved officer might make an argument that the Manager had to uphold the commission's decision because the Manager was worried about losing his own job if he were to rule against the council member who was on the commission, creating at least the appearance that either the council/commission member or the Manger were not fair or impartial and that at least one of them may have a financial interest in the outcome of the matter.

However, if there was no connection between the Manager and the members of the police commission, no such scenario could exist. The police commission members are appointed by the Mayor with the consent of the Council. The Manager has no control over the Commission and the Commission has no connection to the Manager. This appears to be what the legislature intended as was discussed by the Court in the *Goings* case.

Therefore, it is my opinion that a member of the Town Council should not at the same time be a member of the Police Commission. If you have any questions or would like copies of any of the cases I have cited, please let me know and I will be happy to provide them to you.

Ms. Rebecca Guay
November 26, 2013
page 3

Sincerely,

A handwritten signature in cursive script that reads "Jane". The signature is written in black ink and is positioned above the printed name.

Jane Mersen
Town Attorney



Post Office Box 1299
West Yellowstone, Montana 59758

PHONE / FAX: (406) 646-7461
EMAIL: info@yellowstonehistoriccenter.org
WEBSITE: www.yellowstonehistoriccenter.org

November 14, 2013

FORM 32 LETTERHEAD

Becky Guay, Operations Manager
Town of West Yellowstone
PO Box 1570
West Yellowstone, MT 59758

Dear Becky,

Thank you for providing our Board of Directors with the opportunity to review the Draft Lease Agreement for Yellowstone Historic Center's office and storage space in the Union Pacific Dining Lodge.

We request that the 1) Description of Premises be modified to read as follows:

The Town hereby demises and leases to YHC the premises presently known as the Union Pacific Dining Lodge (UPDL) located at 220 Yellowstone Avenue, West Yellowstone, Montana, and more particularly the Town leases the space described as the "Rainbow Room" (also formerly known as the Library) and the space described as the "Court Room" (which consists of the clerk's office and the actual court room) located at this address, together with all improvements in the real property (hereafter referred to as "the premises.")

We are making this request on the basis of our current ongoing negotiations with the Town for YHC to manage the Union Pacific Dining Lodge in its entirety. We feel it is important that YHC have a more visible and professional presence within the building than its current office location affords.

YHC remains in need of the valuable storage space provided by the Rainbow Room. As YHC assumes management of the Dining Lodge, the equipment stored there will be used more frequently. The proximity of this storage space to the Mammoth Room will become even more important.

Again, thank you for the opportunity you have provided our Board to provide input to this agreement.

Sincerely,

Ed Geiger
YHC Manager

DATE

MONTH:	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	NOV	DEC
DAY:	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31										
	2004	2005	2006								

LEASE AGREEMENT

THIS AMENDED LEASE AGREEMENT is entered into this 3rd day of December, 2013 by and between the Town of West Yellowstone (“Town”), a Montana municipal corporation, of P.O. Box 1570, West Yellowstone, MT 59758, and Yellowstone Historic Center, Inc. (“YHC”), a Montana non-profit corporation, of P.O. Box 1299, West Yellowstone, MT 59758.

WITNESSETH:

WHEREAS, the Town is the owner of the building and premises described below and wishes to lease office space therein: and

WHEREAS, the YHC maintains an office and storage space in the Union Pacific Dining Lodge building; and

WHEREAS, the Lease Agreement between the YHC and the Town dated September 20, 2011, for the Union Pacific Depot building indicates that the Town shall provide office space to the YHC; and

WHEREAS, the Town and YHC have developed an excellent working relationship in implementing the Lease Agreement that has benefited both the Union Pacific Depot building and the community generally; and

WHEREAS, the Town and YHC desire to enter into an agreement that sets forth their respective rights and obligations regarding the premises and provision of services therein.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions contained herein, the parties agree as follows:~

1) Description of Premises. The Town hereby demises and leases to YHC premises within the Union Pacific Dining Lodge (UPDL) located at 220 Yellowstone Avenue, West Yellowstone, Montana, and more particularly the Town leases only the office space described as the “Rainbow Room” (old West Yellowstone library) and the space described as the “Court Room” (which consists of the clerk’s office and the actual court room) located at this address, together with all improvements in the real property (hereafter “the premises”).

2) Use of Premises. The premises leased to YHC shall be used exclusively for activities associated with the operation of a business office for the YHC, for storage of archival files, and storage of equipment and items related to the provision of services to renters of the UPDL for events and activities. The Town shall discuss its intention to lease or occupy portions of the building described in Section 1 with YHC prior to leasing or occupying said space.

3) Term of Lease. The term of this Lease Agreement shall be ten (10) months,

commencing on December 1, 2013 and terminating on September 30, 2014. The Agreement shall renew automatically for consecutive one (1) year terms for a maximum of five (5) years unless the Town or YHC exercise their respective rights to terminate the Agreement in accordance with Section 4 below.

4) Termination. This Agreement may be terminated by written notice given by either the Town or YHC to the other party on any date in such notice stated, not less, however, than 120 days subsequent to the date on which such notice shall be given. Said notice may be given to YHC by serving YHC personally or by posting a copy thereof on the outside of any door in any building upon the leased premises or by mailing said notice, postage prepaid, to YHC at the last address known to the Town. Said notice may be given to the Town by mailing the same, postage prepaid, to the Town Offices.

5) Rental Payments. YHC shall pay the Town a rental amount of Five Hundred Dollars (\$500.00) per month beginning on December 1, 2013 and payable on the same day of each month thereafter until expiration or termination of the lease. Payments shall be made to the Town at 10 S. Faithful (P.O. Box 1570), West Yellowstone, Montana 59758. The Town reserves the right to amend the rental payment on an annual basis.

6) Definition of "Capital Improvement" and "Maintenance and Repair." As more generally described below, the Town is responsible for the cost of any capital improvement to the premises, while YHC is responsible for maintenance and repair of the premises. The term "capital improvement" means any permanent alteration or modification to the premises that (i) substantially increases its value, (ii) substantially prolongs its life, or (iii) adapts it to an entirely new use. In the event of a dispute between the parties concerning the definition of "capital improvement," the parties shall look to Section 263(a) of the Internal Revenue Code for guidance, including regulations, IRS interpretations or court cases construing this section. Any alteration, modification or other work of any kind performed on the premises, that does not constitute a "capital improvement" qualifies as "maintenance or repair."

7) Capital Improvements. The Town is solely responsible for the cost of capital improvements to the premises. The Town will consult with YHC concerning necessary or desired capital improvements on the premises; however, any modification or alteration to the premises is subject to the Town's discretion and written prior approval. The Town shall make every effort to provide for continuous operation during any capital improvement construction, including, if necessary, assistance in relocating operations to alternate facilities.

8) Maintenance and Repair. As a general principle, maintenance and repair of the leased premises is the sole responsibility of YHC, except that the following items will be performed by or at the sole expense of the Town: maintenance of lawns and landscaping, snow removal from the driveway that accesses the western door closest to the office described in Section 1, and removal of snow from the roof of the building should it become necessary. YHC shall remove snow and otherwise maintain the walkway to the entrance of the premises.

9) Utilities. The Town shall be solely responsible for public or private utility services of any kind furnished to the premises during the term of this lease, not including any telecommunication services. The Town shall promptly pay all billing statements or accounts for utility services furnished to the leased premises.

10) Independent Contractor. YHC shall at all times remain an independent contractor when performing activities of whatever kind in the leased premises. All persons working at the facility or elsewhere in YHC's operations are solely employees of YHC, and not the Town.

11) Casualty Insurance. The Town shall keep all buildings and improvements on the leased premises insured against loss or damage by fire or other standard peril in an amount it deems appropriate. YHC shall maintain its own casualty insurance for fire or other standard peril on the personal property and leasehold improvements contained in the premises.

12) Liability Insurance. Both parties shall maintain liability insurance for bodily injury and property damage involving the leased premises or the operations thereon. The Town shall maintain liability insurance in accordance with Montana statutory limits on municipal liability, presently the amount of \$750,000.00 per person and \$1,500,000.00 per occurrence; YHC shall maintain comprehensive general liability insurance in an amount of no less than \$1,000,000.00 per person and \$2,000,000.00 per occurrence. To the extent practical, each party will name the other party as an additional insured on its respective liability policy; in addition, each party will provide the other party with a certificate or other document evidencing purchase of the required casualty and liability insurance.

13) Mutual Indemnification. To the fullest extent permitted by law, YHC agrees to indemnify and hold the Town harmless, and the Town agrees to indemnify and hold YHC harmless, for any claim, damage, loss, attorney's fees or expense of any kind incurred by or asserted against one party and arising from the negligence or action of the other party.

14) Assignment or Sublease. YHC may not assign any of its rights or obligations under this lease, nor may YHC sublease all or any portion of the leased premises, without the prior written approval of the Town. Because of the nature of this lease and the unique relationship between the Town and YHC, the Town may withhold approval for assignment or sublease for any reason it deems appropriate.

15) Unlawful Activity or Nuisance. YHC shall neither use nor occupy the leased premises in any manner that violates federal, state or local law or regulation. YHC shall not use the leased premises in any manner that constitutes a public or private nuisance.

16) Improvements. All improvements to the leasehold premises, whether paid for by the Town or YHC, shall become the sole property of the Town upon the expiration or termination of this lease. All improvements made to the premises must be reviewed and

approved by the Town prior to installation. All personal property owned or purchased by YHC that is not permanently affixed to the premises shall remain YHC's property upon expiration or termination of this lease.

17) Annual Review. The Town and YHC shall meet on a regular basis but at least annually to review the lease agreement and propose modifications. Modifications to the agreement may be made at any time by mutual agreement of the parties.

18) Default or Breach. The following events shall constitute a default or breach of this agreement by YHC:

- (a) If YHC fails to pay rent when due;
 - (b) If YHC assigns or attempts to assign all or any portion of this agreement without the prior written permission of the Town;
 - (c) If YHC sublets or attempts to sublet all or any portion of the leased premises without the prior written permission of the Town;
 - (d) If YHC vacates or abandons the leased premises;
 - (e) If YHC causes a construction lien or any other lien to be placed on the premises;
- or
- (f) If YHC fails to comply with any material condition or provision of this lease.

If YHC is in default of this lease as described above, then the Town must provide written notice of the alleged default and, if appropriate, explain how the default can be cured. If YHC has not cured the default within thirty (30) days of mailing the written notice, then the Town may terminate this lease in accordance with Section 4. Exercise of its termination rights does not preclude the Town from pursuing any other right or remedy it may have under law or this agreement, including the right to contract with another party to lease the premises.

19) Notice. Any default or other notice required or permitted by this agreement must be served on either party in writing either by first-class mail or in person at the respective addresses set forth at the beginning of this agreement. Either party shall also use this notice procedure to inform the other of a change of address.

20) Right of Entry. YHC shall permit the Town, its agents or employees to enter the leased premises at all reasonable or necessary times to inspect the premises, to perform work thereon, or to conduct any other activity that is reasonably related to the Town's interest in the premises. When no emergency exists that requires immediate entry, the Town shall make a reasonable effort to provide YHC with oral or written notice at least 24 hours before entry.

21) Warranty of Condition/Inspection. The Town makes no express or implied warranty or representation concerning the existing condition of the leased premises. Prior to December 1, 2013, the Town and YHC will conduct a joint inspection of the office space noting existing damage. Upon completion of the joint inspection of the leased premises, YHC agrees to

accept the premises in their present condition and state of repair.

22) Venue and Attorney's Fees. Venue for any litigation between the parties shall be proper only in Gallatin County, Montana. In the event of litigation between the Town and YHC, the prevailing party shall be entitled to all its reasonable costs and attorney's fees incurred during the litigation, both in the trial court and on appeal.

23) Governing Law. This Agreement shall be governed by Montana law.

24) Entire Agreement. This document is the entire agreement between the parties and shall supersede all prior oral or written agreements or understandings. If the parties mutually desire to amend or modify this agreement, then such amendment or modification must be in writing and be signed by an appropriate representative of each party.

25) Successors. This Agreement shall bind YHC's heirs, successors and assigns.

DATED the day and year first above written.

YELLOWSTONE HISTORIC CENTER, INC.

By: Rawhide Johnson, Chairman

TOWN OF WEST YELLOWSTONE

By: Rebecca Guay, Operations Manager

ATTEST:

Elizabeth Roos, Town Clerk

STATE OF MONTANA)
 : ss.
County of Gallatin)

This instrument was acknowledged before me this ____ day of _____, 2013, by
Rebecca Guay, as operations manager of the Town of West Yellowstone.

(S E A L)

NOTARY PUBLIC for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

STATE OF MONTANA)
 : ss.
County of Gallatin)

This instrument was acknowledged before me this ____ day of _____, 2013, by
Rawhide Johnson, as Chairman for the Board for the Yellowstone Historic Center, Inc.

(S E A L)

NOTARY PUBLIC for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

**Application for Outside Amplification Permit
Town of West Yellowstone
Gallatin County, Montana**

Event: S'mores and More Evenings

Contact Person: Marysue Costello

Address of Contact Person: 30 Yellowstone Avenue,
West Yellowstone, MT 59758

Phone Number: 406-646-7701 (Marysue

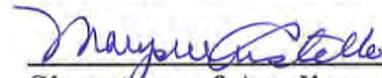
Signature of Property Owner of Record: Town of West Yellowstone

Date(s) of Event: Saturdays Dec. 14, 2013; Jan. 18, Feb. 15 & Mar. 8, 2014

Location: Pioneer Park near skating rink

Amplification between the hours of: 6:00 pm PM and 9:00 PM

Description of Event: This is a part of our overall "S'mores and More" evenings.
We sometimes have DJ music and sometimes a live entertainer. Our maximum
crowd size would be 100-350 people depending on weather conditions.



Signature of Applicant
11/27/13

Date

FOR OFFICE USE ONLY

Decision by Town Council: **Approved** **Disapproved**

Conditions: _____

Signature of Mayor/Operations Manager: _____

Date

RESOLUTION NO. 642

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WEST YELLOWSTONE, IN THE COUNTY OF GALLATIN AND STATE OF MONTANA TO REVISE THE 2013-2014 FISCAL BUDGET.

Whereas, the Town is required to reflect changes to the budget by resolution.

Whereas, the Town would like to increase the expenditure budget of the Social Services Help Fund.

Whereas, the Help Fund has the fund balance available through increased donations to said fund.

THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WEST YELLOWSTONE, MONTANA:

That the fiscal year 2013-2014 Social Services Help Fund (7010-450135) expenditure budget be amended to reflect an increase of \$5,200.00 for a total expenditure of \$11,700.00.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF WEST YELLOWSTONE, MONTANA, THIS 3rd DAY OF DECEMBER, 2013 AND APPROVED BY THE MAYOR OF THE TOWN OF WEST YELLOWSTONE.

Mayor

ATTEST _____
Town Clerk

Resolution No. 643

A RESOLUTION OF THE TOWN COUNCIL of the Town of West Yellowstone, Montana, of its intention to write off from the Ambulance accounts receivable fund delinquent ambulance bills as processed by Collections of Bozeman, MT.

NOW THEREFORE BE IT RESOLVED, by the Town Council of The Town of West Yellowstone, County of Gallatin, State of Montana, that delinquent ambulance bills of identifiable accounts, see attachment of their amounts totaling \$23,801.61. The Town Council authorizes the process of removing them from the Ambulance accounts receivable fund by crediting said fund.

PASSED BY THE TOWN COUNCIL OF THE TOWN OF WEST YELLOWSTONE
THIS ____ DAY OF _____, 2013.

Mayor

Council Member

Council Member

Council Member

Council Member

ATTEST:

Town Clerk

**Town of West Yellowstone
Ambulance Write-offs for 2013**

Run #	Amount	Reason
R08272	\$1,970.00	Bankruptcy
R08138C	\$75.00	Statute of Limitations
R08410	\$1,240.00	Statute of Limitations
R07064	\$1,139.60	Statute of Limitations
R06007	\$81.00	Statute of Limitations
R03168	\$109.00	Statute of Limitations
R08308	\$50.00	Statute of Limitations
R08309	\$128.00	Statute of Limitations
567372329	\$289.00	Statute of Limitations
1423	\$65.00	Statute of Limitations
A2344	\$2,658.50	Statute of Limitations
1712	\$1,943.00	Statute of Limitations
534686159	\$2,225.00	Statute of Limitations
R08407	\$1,329.00	Bankruptcy
1663	\$1,325.00	Statute of Limitations
1671	\$2,229.10	Statute of Limitations
1804	\$2,225.00	Deceased
978789	\$75.00	Statute of Limitations
978791	\$75.00	Statute of Limitations
530765884	\$50.00	Statute of Limitations
R06153	\$1,209.00	Statute of Limitations
1670	\$2,125.00	Statute of Limitations
R08317	<u>\$1,186.41</u>	Statute of Limitations
	\$23,801.61	

Town Hall Open House/Employee Party

December 19, 2013

Talking Points

Budget

There is \$750 in the budget for the open house plus \$4000 for employee appreciation/recognition.

Time

4 pm employee party/recognitions. The Town did not give out the grocery store gift certificates last year, but if the Council chooses to do that this year, \$50 gift certificates for employees and council members would cost about \$2000. We have ordered pins/stones for new employees and employees that have passed the traditional milestones. Best guess on the cost for the pins is around \$500, but we haven't got the pins or a bill yet and Silver Heels has closed for the season... is it time to come up with a new program?

5-7 pm Open House for Community (Too early? Too late?)

Food Options

Cater the food or do it in-house?

Last year spent \$1920 for catered dinner from High Altitude Catering, did not include dessert, planned for about 70 people. When Greene resigned in 2012 it cost \$550 for appetizers from the same business, fed about 40 people. We do not know how many people to expect and think we should just plan to provide appetizers/desserts. The less expensive option would be to just order some Costco platters (veggies, shrimp, cheeseball), throw meatballs and cocktail weenies in crockpots, and James has offered to grill up some salmon. We could order a cake or possibly just cookies/cupcakes from a local baker. Beverages would probably just include punch and coffee.

The Building

We anticipate having the new furniture for the Town Offices and Public Services office in the building prior to the open house. We also plan to have the historical pictures printed on canvas and hung in the entryway and down the hallway to the Council Meeting Room. We do think we should put up some holiday decorations and a tree in the entryway. We have discussed asking a local business to come in and help us decorate the tree and the main areas. Suggestions?

Advertising

We will run a display ad in the local paper for two weeks preceding the Open House, request that they mention it on the radio, and post flyers at the Post Office.



Training Announcement

Elected Official Disaster Workshop



WHEN: December 12, 2013
6:00 pm—8:00 pm (Dinner Provided)

WHERE: Gallatin County Coordination Center
219 East Tamarack, Bozeman

RSVP with:

Camille Lindsay
582-2369
clindsay@bozeman.net

Come learn about Emergency Management in Gallatin County and your role in it as an elected official.

Topics to be covered:

- Emergency Management Program
- Orientation to Coordination Center
- Title 10 of MCA
- Stafford Act



ReadyGallatin.com