

WEST YELLOWSTONE TOWN COUNCIL
Town Council Meeting & Work Session
April 7, 2015

COUNCIL MEMBERS PRESENT: Mayor Brad Schmier, Jerry Johnson, John Costello, Cole Parker, Greg Forsythe

OTHERS PRESENT: Finance Director Lanie Gospodarek, Assistant Public Services Superintendent David Arnado, Chief of Police Scott Newell, Social Services Assistant Kathi Arnado, Town Attorney Jane Mersen, WY News Editor Jeremy Weber

The meeting is called to order by Mayor Brad Schmier at 7:00 PM in the West Yellowstone Town Hall, 440 Yellowstone Avenue, West Yellowstone, Montana.

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.

WORK SESSION

Mayor Schmier calls the meeting to order and explains that the first item of discussion is the Collective Bargaining Agreement for the West Yellowstone Employees Unit of the Montana Public Employees Association. Schmier asks Council Member Johnson and Finance Director Lanie Gospodarek to describe the agreement and answer any questions from the Council. The agreement has been approved by the Employees Unit and is on the agenda for consideration by the Council later this evening. Johnson explains the language changes made to the section that addresses the use of floated holidays. Other changes were made in the agreement that affect taking vacation time, pay out of sick leave, steward release during work hours, probation, seniority, advance leave time requests, grievance process, uniform provisions, health and wellness, and compensation. Johnson and Gospodarek answer multiple questions from the Council. Mayor Schmier points out that the language about the treadmill in the basement of the Town Hall may conflict with Policy No. 31. Johnson points out that this contract is only for two years, unlike the previous contract that was for six years. He says that was easily agreed on and no one was happy about the fact that it took so long to negotiate this contract. Johnson thanks everyone that worked on the agreement for their time and efforts, he also thanks Town Attorney Jane Mersen for her advice and guidance through the process.

Mayor Schmier says they have two major employee recruitments underway, the Operations Manager and Social Services Director. The Council discusses the proposal they recently received from the Prothman recruiting firm, a firm out of Washington state that specializes in recruiting management positions for local governments. The Prothman proposal offers to conduct the recruitment for \$18,000 plus expenses. Schmier points out that other jurisdictions in the region including Belgrade and Red Lodge have used this firm. After further discussion, the Council indicates that they would like to proceed with the process and direct the staff to request a specific contract for action by the Council at the next meeting.

The Council discusses the job announcement, salary, and job description for the Social Services Director. The Council makes recommendations for minor changes to the job description and Mersen agrees. The Council directs the staff to start advertising for the position.

The Council adjourns the work session at 7:15 PM and the regular meeting starts at 7:30 PM.

ACTION TAKEN

- 1) Motion carried to approve the claims which total \$71,131.74. (Forsythe, Parker)
- 2) Motion carried to approve the Consent Agenda, which includes the minutes of the March 17, 2015 Town Council Meeting and March 31, 2015 Town Council Work Session. (Forsythe, Parker)

- 3) Motion carried to approve the request from Ramona Stubblefield to waive the resort tax bond for the Euro Café based on a satisfactory payment history at her other business, Serenity Bistro. (Parker, Johnson)
- 4) Motion carried to reappoint Vickie Barta to the Parks & Recreation Advisory Board for a term of four years. (Costello, Johnson)
- 5) Motion carried to reappoint Jeremy Roberson and John Stallings to the Tourism Board of Trustees for four-year terms. (Johnson, Parker)
- 6) Motion carried to approve and ratify the Collective Bargaining Agreement with the MPEA Employees Unit, effective through July 31, 2016. (Johnson, Parker)

Public Comment Period

No public comment is received.

Council Comments

Council Member John Costello reports that he recently attended a meeting at the Forest Service about the future of the smokejumper base in West Yellowstone. His interpretation of the situation is that they will be okay in the short-term but the long-term plans do not look promising. Council member Parker agrees and says that they will have an operational base this year, which is beneficial for fighting forest fires and protecting the Town. WY News Editor Jeremy Weber adds that the presentation he was sent outlined six options for the future of the base, most of which were more cost-effective than rehabilitating the base here in West Yellowstone.

Forsythe says he has a couple of issues he wants to bring up. He says that he thinks they should still pursue installing a timeclock system, especially considering the agreement they expect to approve this evening. He says he also wants to make sure they follow up on the suggested changes to the resort tax ordinance that came about as a result of the appeal by Glenn Hales on behalf of the Yellowstone Imax Theater. He also says that he appreciates the daily update emails from the staff of the Town Office, but acknowledges those take time and perhaps they don't need an update every day. He suggests three times a week for the weeks they don't have a meeting and twice a week for the weeks that they do. Schmier asks Mersen about the public records request policy. Mersen says that she forwarded some examples to the Council previously and says that she can work on drafting a policy.

DISCUSSION

- A) Mayor Schmier explains that Roger Merrill, on behalf of the Playmill Theater, has requested an audience before the Town Council to discuss the results of his recent resort tax audit. Merrill addresses the Council and explains that when they purchased the Playmill Theater in 2005, they researched the resort tax ordinance and determined that online sales of theater tickets are not subject to the resort tax. He says that the ordinance was adopted over thirty years ago and has only been updated sporadically. He asserts that his business was audited in 2007 and found to be in compliance so he does not understand why his online ticket sales are now considered taxable. Schmier responds that the information that has been provided indicates that they did not complete the audit in 2007 and therefore cannot be considered to be in compliance. He asks Merrill what he is asking from the Town. Merrill says he would like clarification in the ordinance. He says that the closest example in the ordinance is catalog sales, which are deemed to be non taxable because the goods are shipped outside of town. He says that a theater ticket is neither a good or service but actually a limited license. Johnson clarifies that they do collect the tax on tickets sold over the phone or at the ticket office, but they believe that an internet transaction is an entirely different thing and Merrill agrees. Schmier says that since this is an ordinance, the Council does not have the authority to waive it and defers to Town Attorney Jane Mersen. Mersen says that she has responded to Mr. Merrill's attorney and agrees that they do need to update the ordinance, but says it is her opinion

that purchasing a ticket over the internet is merely a pre-payment for the experience in West Yellowstone and therefore is subject to the tax.

- 6) Costello says that he would like to credit both sides for working on this agreement and appreciates their efforts. Johnson asks the rest of the Council if they would like them to move forward with negotiating the collective bargaining agreement with the Police unit. The Council agrees and designates Johnson and Gospodarek to proceed with that negotiation.
- B) **Advisory Board Reports:** Council Member Cole Parker reports that the Planning Board has been meeting regularly and is making progress on the Growth Policy. Johnson reports that he talked to Glen Loomis who has closely been monitoring House Bill 262. The bill is indefinitely frozen but the majority leader from Dillon has the option of bringing it back to the floor for another vote. Loomis is optimistic that this is a real possibility.
- C) **Department Head Reports:** Schmier reports on behalf of Operations Manager Becky Guay about the two appraisals they are waiting for. Chief of Police Scott Newell reports that Officer Kearney is doing very well and he is working with the Operations Manager to draft an offer of employment for a second agreement. He says that remodeling is going well at the Police Department. Mayor Schmier asks about the agreement with Gallatin County Sheriff Department is going and if they will be able to release the County deputies from that obligation in the near future. Newell says that Officer Courtis is on vacation right now but as soon as he returns he thinks they will be able to cover all of their shifts and no longer require their assistance by the time the summer season takes. Social Services Assistant Kathi Arnado says that things are going well in her department and she is getting assistance from Public Services to pick up food. They will, however, lose the assistance of Frank Bezold as a volunteer on the 17th of the month. Finance Director Lanie Gospodarek says that she is starting to work on budget preparation. Schmier notes that the sewer fund is overdrawn. Gospodarek says that they did not anticipate the substantial increase in the electric bills for the new blowers at the lagoons and that line is over budget. Assistant Public Services Superintendent Dave Arnado says that they are nearly finished with the carpet project at the Povah Center and will be able to focus on finishing at the Police station. He indicates he will also talk to representatives from DOT about the Canyon Street project tomorrow.

CORRESPONDENCE/FYI

Dated March 11, 2015, the West Yellowstone Brownie Troop writes to express a concern and improvement suggestion for the playground at Pioneer Park. Dated March 23, 2015, Gayle Gifford, CEO of the Montana Foodbank Network, writes to announce that the MarketPlace grocery store and volunteer Frank Bezold are being recognized by the Montana First Lady Lisa Bullock at the State Capitol on Friday, April 17, 2015.

The meeting is adjourned. (8:15 PM)

Mayor

ATTEST:

Town Clerk

WEST YELLOWSTONE TOWN COUNCIL

Work Session

April 14, 2015

COUNCIL MEMBERS PRESENT: Mayor Brad Schmier, Jerry Johnson, Greg Forsythe, Cole Parker, John Costello

OTHERS PRESENT: Finance Director Lanie Gospodarek, Public Services Superintendent James Patterson, Town Attorney Jane Mersen, Jeremy Weber-Editor, West Yellowstone News, Helene Righenour

The meeting is called to order by Mayor Brad Schmier at 6:00 PM in the West Yellowstone Town Hall, 440 Yellowstone Avenue, West Yellowstone, Montana

Public Comment Period

Pierre Martineau introduces Kirsten Goldstein, a Vista Volunteer who will be conducting a housing study here in West Yellowstone.

Council Comments

Council Member Parker mentions that he is getting a lot of emails that appear to be junk but he can't seem to delete them. Patterson says that he can help him with the problem.

The first topic of discussion is the current Resort Tax Ordinance and proposed changes and clarifications to the ordinance. Town Attorney Jane Mersen points out that the potential changes are highlighted in red. The group begins to work through the ordinance and discuss the proposed changes. They agree to clarify the types of lodging facilities that must tax their accommodations and include "vacation rentals." They also discuss whether a bottle of liquor sold at a bar should be taxed. Bottles of liquor sold at State Liquor stores are not taxed. Mersen indicates that she will look into whether it is appropriate to tax a bottle sold at a bar. The group also discusses including language in the ordinance that clarifies that tax-exempt organizations must collect the tax, but visitors with tax-exempt status must also pay the tax. Mersen says that this ordinance outlines who collects the tax and what is taxed, but does not necessarily address who must pay the tax. She says that she will work on some language they can include in the ordinance that also clarifies that tax-exempt status individuals/organizations must also pay the tax. The Council discusses the section that defines what items are taxed and agrees to the proposed clarifications and additional language. The Council discusses whether items such as tanning passes, car washes, gumball machines, and non-souvenir clothing should be taxed. Johnson suggests that rather than focusing on what they should tax, they should focus on what is not taxable as that is a shorter list. The Council discusses minor changes to the random audit process. There is also discussion about property tax relief. Finance Director Lanie Gospodarek explains that if resort tax collections exceed the budgeted amount, that money is put directly into the General Fund to offset any necessary property mill levy. The Council discusses the penalty structure at length. The current proposal is to reduce the 10% penalty per month to 3% on outstanding tax and penalties, in addition to the \$25 or \$50 fee for not paying by the end of the month. Businesses that pay by the 20th of the subsequent month are permitted to keep 2.5% of the 3% tax as an administrative fee, but payments received after the 20th must include that 2.5% in the payment. Multiple penalty structures are discussed and there is general agreement to remove "penalties" from the sentence that outlines that 3% interest will be charged per month on the amount of delinquent tax. The group also briefly discusses the civil penalties that may be awarded by a court for delinquent tax. Mayor Schmier thanks everyone for their participation and explains that a new draft will be prepared with the changes discussed this evening.

The next item of discussion is a Public Records Request process and guidelines for responding to such requests. The Council has had opportunity to review multiple policies from other municipalities. Town Attorney Jane Mersen has prepared a draft policy for the Council to review, based on common approaches by other municipalities. The Council discusses the fee schedule and makes recommendations. Mersen indicates that she will take their comments into consideration and prepare a new draft.

The Council discusses the recruitment of a new Operations Manager. The Council has been considering contracting the recruitment process through a professional firm and has been looking

specifically at the Prothman Company. Prothman has run recruitments in Red Lodge and Belgrade in the recent past and the estimated fee plus expenses is expected to run close to \$25,000. Johnson says that he looked into a couple other companies that offer the same service and the cost would be expected to be about the same. He says that he has talked to Slavin Management Consultants and will request a contract and more information about their service. Town Clerk Liz Roos says she will contact Prothman to find out if they are willing to make a 2-year guarantee on their service and what their placement track record is. The Council agrees that they would like to move forward with this process at the regular Council Meeting next week.

The meeting is adjourned. (8:25 PM)

Mayor

ATTEST:

Town Clerk

WEST YELLOWSTONE TOWN COUNCIL
Town Council Meeting & Work Session
April 21, 2015

COUNCIL MEMBERS PRESENT: Mayor Brad Schmier, John Costello, Cole Parker, Greg Forsythe

OTHERS PRESENT: Finance Director Lanie Gospodarek, Public Services Superintendent James Patterson, Chief of Police Scott Newell, Town Attorney Jane Mersen, WY News Editor Jeremy Weber, Helene Rightenour, Li Zhang, Randy Wakefield, Fire Chief Shane Grube, Assistant Fire Chief James Jessep, Tom Cherhoniak, Forsgren, Richard & Teri Gibson

The meeting is called to order by Mayor Brad Schmier at 7:00 PM in the West Yellowstone Town Hall, 440 Yellowstone Avenue, West Yellowstone, Montana.

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 Treasurer's Report and Securities Report dated April 13, 2015. (Costello, Parker)
- 2) Motion carried to approve the claims, which total \$101,238.97. (Costello, Forsythe)
- 3) Motion carried to approve the Consent Agenda, which includes the minutes from the April 7, 2015 Work Session/Town Council Meeting and April 14, 2015 Work Session. (Parker, Costello)
- 4) Motion carried to approve the new business license application for the Geyser Inn at 107 S Electric Street for a fee of \$619.00. (Forsythe, Parker)
- 5) Motion carried to table the offer until the next meeting when Council member Johnson will be back and see if they can get Mr. Peterson to come down and explain the appraisal. (Forsythe, Costello) Schmier is opposed.
- 6) Motion carried to approve the first reading of Ordinance No. 258, Resort Tax. (Costello, Parker)
- 7) Motion carried to approve Resolution No. 661, as amended, a resolution establishing a fee schedule for public records searches, copying, and research. (Costello, Forsythe)
- 8) Motion carried to move forward and approve the contract for recruitment services with the Prothman Company to recruit an Operations Manager. (Costello, Parker)

Public Comment Period

No public comments are received.

Council Comments

Mayor Schmier thanks the staff for all their hard work this spring, the town looks great and he can't remember a time when it looked this nice this early. He also mentions the new court clerk, Kerry Parker, and welcomes her.

DISCUSSION

- A) **Advisory Board Reports:** Parker reports that the Planning Board met last week and is continuing to work on the Growth Policy. He says that they have made specific assignments to members of the board to update portions of the 2006 plan.

- B) **Operations Manager/Department Head Reports:** Mayor Schmier reports that they have wrapped up the labor negotiations with the Employees Unit and will start negotiating with the Police Department soon. The Study Commission is making progress on their task. He also mentions that they have received some complaints about dirt and debris on the sidewalks. The appraisal on the Emergency Services Building has been completed. Richard Gibson explains that the study commission will meet next month and work on putting together the tentative report to present to the voters. Forsythe asks if this issue will go on the ballot this fall. Roos responds that if they have the report ready by the August deadline they can put it on the ballot. Patterson reports on the progress of multiple public works projects including the curb and street reconstruction on Canyon Street, sidewalk and alley maintenance. He also mentions that they are picking up a buffalo that was recently hit for distribution from the Food Bank. He is also working on reducing the number of trips they make to pick up food by combining them with other trips they make for parts. Gospodarek explains that they have been helping out the new court clerk in her new position. They have also been working on court reconciliation, ordinance revisions, department head salary survey, calculating the union negotiated retroactive pay, and starting budget preparations. Chief of Police Scott Newell says the renovations at the police department are almost complete and has made a significant difference. Officer Kearney has completed his field training, Chris Wiese has accepted an offer of employment and will start May 4, 2015. He will attend the Montana Law Enforcement Academy in January 2016. Town Clerk Liz Roos reports that she took a call from Rocky Mountain Appraisals today. The appraisal on the US Forest service 80 acres has been completed and accepted by the Forest service. They have not received a copy yet but anticipate one in the near future.
- 4) The Council asks a couple questions about the application. Patterson says that if they do keep the hotel open during the winter their plan is to haul away snow from the property to keep the parking areas open.
- 5) Mayor Schmier explains that in January, the Town tabled the offer from Hebgen Basin Fire District to purchase the Emergency Services Building at 400 Yellowstone Avenue for \$200,000. The offer was tabled pending an appraisal on the building, which has been completed and valued at \$533,000. Forsythe asks Costello what his thoughts were on the results. Costello says he has known the Mr. Peterson for many years and he is sure he knows his business well, but admits that he was very surprised at the final number. Forsythe asks a couple questions about Peterson's methodology. Costello says that if they have questions they should arrange to meet with Peterson to get those answers. Schmier says that he thinks Peterson did a good job on a difficult value. Forsythe says that he doesn't understand the appraisal and perhaps meeting with Peterson is the right thing to do. He says that the building was built with the intention of providing emergency services. He says that his perspective is that if they don't sell the building, they are just turning down \$200,000. He suggests they consider some sort of an agreement where HBFD could purchase the building for \$200,000, but if they want to sell it they can only sell it back to the Town for the same amount. Forsythe asks Schmier what his opinion is on the matter. Schmier says that he does not think they can justify selling the building for \$200,000 when it was appraised for \$533,000. He also does not see a real advantage to either side to selling the building.
- 6) The Mayor and Council discuss the proposed changes to the resort tax ordinance. Mayor Schmier points out a couple sections and recommends changes to the wording. The Council discusses the wording and changes with Town Attorney Jane Mersen. They agree to schedule a public hearing and 2nd reading for the May 5, 2015 meeting. Richard Gibson asks if they have obtained a legal opinion on whether they have the authority to tax an internet sale for a ticket, such as the tickets sold by the Playmill. Mersen explains that she has provided an opinion to the Town as well as the attorney for the Playmill that the ticket is merely a prepayment for the service and it does not matter how the transaction was handled. Gibson asks if there is any case law on this issue, but Mersen

explains that no one has ever challenged this issue before the Montana Supreme Court or sued a Town-so there is not.

- 7) The Mayor and Council discuss Resolution No. 661, a resolution setting a fee schedule for records searches, copying, and electronic information. They discuss the section of the resolution that addresses the cost of bringing in an IT expert and agree that those costs should be passed on to the requester. Mayor Schmier emphasizes that their intention is not to make it too expensive for individuals to request records.

Meeting adjourns into executive session 8:45 PM to discuss pending litigation.

The meeting is adjourned. (9:45 PM)

Mayor

ATTEST:

Town Clerk

WEST YELLOWSTONE TOWN COUNCIL

Work Session

April 30, 2015

COUNCIL MEMBERS PRESENT: Mayor Brad Schmier, Jerry Johnson, Greg Forsythe, Cole Parker, John Costello

OTHERS PRESENT: Public Services Superintendent James Patterson, Chief of Police Scott Newell, Jeremy Weber-Editor, West Yellowstone News, Fire Chief Shane Grube, Head Dispatcher Brenda Martin, Sandi Pepler, Pierre Martineau, Marysue Costello-WY Chamber Executive Director, Don Perry, Richard & Teri Gibson

The meeting is called to order by Mayor Brad Schmier at 6:30 PM in the West Yellowstone Town Hall, 440 Yellowstone Avenue, West Yellowstone, Montana

Public Comment Period/Council Comments

Council Member Parker says that it was recently mentioned to him that the Buffalo Field Campaign has a vehicle that

Mayor Schmier calls the meeting to order. The purpose of the meeting is to discuss the Operations Manager Recruitment Process and Schmier introduces John Hodgson of the Prothman Company from Issaquah, WA. Hodgson distributes an agenda for the discussion and briefly describes his background which includes 33 years as a city administrator/department director and extensive experience recruiting management positions for local governments. Hodgson describes the recruitment process including developing a position description and community description, advertising, candidate screening, and will then guide the Council to narrow the field down to approximately five candidates. He adds that they will do extensive reference checking, criminal background check, college verification, and schedule final interviews. Hodgson answers multiple questions from the Council about the process they will go through to narrow down the applicants. He explains that once the application period closes, they will screen the applicants and interview the top 10 to 15 candidates. He also describes the work session they will hold after the initial screening where he will work with the Council to narrow the field of applicants down to approximately five people that they will bring in for final interviews. Hodgson describes the draft schedule he has put together for the recruitment, which is expected to take 6-8 weeks. Hodgson asks the Council why the position is identified as an Operations Manager rather than a Town Manager. The Council responds that is how the position is identified in the Charter, but acknowledges that the job description is very similar to that of a Town Manager. Hodgson states that they may lose applicants because of the title. Richard Gibson-Chair for the Local Government Study Commission, explains that the Study Commission has discussed that at length. Hodgson says that the government review process may also scare away candidates if they think there is a chance that the form of government will change or the job description will change. Gibson says that he does not think the study commission will recommend major changes to the charter and the group briefly discusses the schedule for the commission over the next couple of months. Hodgson asks for a copy of the schedule for the study commission so he will be better prepared to answer questions about that process from potential applicants. The Council discusses general qualities and skills they consider valuable in a new manager including that human resources, labor negotiations, knowledge of municipal budgeting, Montana law, communication skills, and planning. The Council Members and Department heads will meet individually with Hodgson tomorrow.

The meeting is adjourned. (8:05 PM)

Mayor

ATTEST:

Town Clerk