

**TOWN OF PARKER COUNCIL
MINUTES
JUNE 4, 2018**

Mayor Mike Waid called the meeting to order at 5:41 p.m. Councilmember Amy Holland was absent.

Jim Maloney announced the topics for the Executive Session which were six (6) items. Under C.R.S. § 24-6-402(4)(b) there were five (5) items; the first was to receive legal advice on specific legal questions regarding Title 32 metropolitan district policy issue (mill levy caps); the second was to receive legal advice on specific legal questions regarding the proposed Ordinances Nos. 3.01.25.3 and 4.89.4 (Town enforcement of public utility providers rules and regulations); the third was to receive legal advice on specific legal questions regarding Article XVIII, Section 16 of the Colorado Constitution (regulation of industrial hemp); the fourth was to receive legal advice on specific legal questions regarding potential class action opioid litigation; and the fifth was to receive legal advice on specific legal questions regarding Colorado Revised Statute Section 31-12-116 concerning the motion for reconsideration filed by Vista South, LLC. Under C.R.S. § 24-6-402(4)(f) there was one (1) item which was the Town Administrator Evaluation Process.

EXECUTIVE SESSION

Josh Martin moved and Joshua Rivero seconded to go into Executive Session at 5:43 p.m., to hold a conference with the Town's attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b), and to consider personnel matters, pursuant to C.R.S. § 24-6-402(4)(f).

The motion was approved unanimously.

Josh Martin moved and Joshua Rivero seconded to recess the Executive Session at 6:57 p.m.

The motion was approved unanimously.

REGULAR MEETING

Mayor Mike Waid reconvened the meeting at 7:08 p.m.

Youth from the audience led the Pledge of Allegiance.

SPECIAL PRESENTATIONS - None

PARKER CHAMBER OF COMMERCE UPDATES

Dennis Houston provided an update on the Parker Days activities that will take place June 7-10, 2018.

DOWNTOWN BUSINESS ALLIANCE UPDATES

Chair Shelley Mango, provided an update on the logo and branding for the Downtown Business Alliance and showed several items with the new logos. She reported that the First Friday Art Walk expanded this year with 35 artists. She stated some participants commented the area towards Victorian Peaks was not as walkable as staying on Mainstreet. Shelley added that some of the sidewalks need some work. She also showed a snapshot of the new website.

PUBLIC COMMENTS - None

REPORTS, ITEMS AND COMMENTS FROM MAYOR AND COUNCIL

Each Councilmember reported on meetings and activities each attended since the last Town Council meeting.

CONSENT AGENDA

- A. *APPROVAL OF MINUTES - May 21, 2018*
- B. *DRAINAGE EASEMENT TERMINATION AGREEMENT - CPC Owners Association, Inc., as the successor to PorterCare Adventist Health System*
 Department: Engineering/Public Works, Alex Mestadagh
- C. *ORDINANCE NO. 8.28.6 - First Reading*
 A Bill for an Ordinance to Amend Section 4.03.030 and Subsection 4.03.200(a) of the Parker Municipal Code Concerning Sales Tax and Qualified Nonprofit Organizations
 Department: Finance, Mary Lou Brown
 Finance, Linda Quade
 Second Reading: June 18, 2018
- D. *ORDINANCE NO. 8.28.7 - First Reading*
 A Bill for an Ordinance to Amend Subsection 4.03.200(a) of the Parker Municipal Code Concerning Sales Tax on Gas and Electric Service
 Department: Finance, Mary Lou Brown
 Finance, Linda Quade
 Second Reading: June 18, 2018
- E. *ORDINANCE NO. 4.89.4 - First Reading*
 A Bill for an Ordinance to Amend Section 11.01.030 of the Parker Municipal Code Concerning the Parker Administrative Code
 Department: Town Attorney, Jim Maloney
 Second Reading: June 18, 2018

- F. *ORDINANCE NO. 3.01.25.3 - First Reading*
A Bill for an Ordinance to Amend Section 13.10.160 of the Parker Municipal Code to Ensure Compliance of New Construction with Public Utility Regulations
Department: *Town Attorney, Jim Maloney*
Second Reading: *June 18, 2018*
- G. *ORDINANCE NO. 9.276 - First Reading*
A Bill for an Ordinance Approving the Intergovernmental Agreement with the Douglas County Clerk and Recorder Regarding the Conduct and Administration of the November 6, 2018, Coordinated Election
Department: *Town Attorney, Jim Maloney*
Town Clerk, Carol Baumgartner
Second Reading: *June 18, 2018*
- H. *RESOLUTION NO. 18-043*
A Resolution to Allow a Partial Waiver of Sections 13.09.040(b)(1), 13.09.070(1), 13.09.080(d) and Schedule 13.09.080B of the Parker Municipal Code for Certain Businesses for Parker Days, Trick or Treat on Mainstreet, and the Parker Christmas Carriage Parade
Department: *Community Development, Rosemary Sietsema*
- I. *CONTRACTS OVER \$100,000*
1. *Pine Curve Building Demolitions Project (CIP 18-011)*
Amount: *\$158,744.00*
Contractor: *Oak Environmental*
Department: *Engineering and Public Works, Bob Exstrom*

Reñee Williams moved to approve Consent Agenda Items 7A and 7C through 7I. Item 7B was pulled for more information to be provided.

Joshua Rivero seconded the motion.

The motion was approved unanimously.

PUBLIC HEARINGS

MOTION FOR RECONSIDERATION BY VISTA SOUTH, LLC, AND MOUNTAIN WASTE-SOUTH METRO, LLC, PURSUANT TO C.R.S. § 31-12-116(2)(A)(II)

Applicant: Vista South, LLC
Mountain Waste-South Metro, LLC

Location: Generally bound by county line between Douglas County and Arapahoe County, Upland Drive, Prairie Trail Drive and Compark Boulevard

Department: Town Attorney, Jim Maloney

Trakit No. ANX18-001

7:31 PM

Vista South, LLC, and Mountain Waste-South, LLC (collectively "Vista South"), filed a Motion for Reconsideration, dated April 25, 2018 (the "Motion") requesting that the Town Council reverse its approval of Ordinance Nos. 2.259 (the "Annexation Ordinance") and 3.333 (the "Zoning Ordinance"). On May 22, 2018, the Town Attorney sent a letter to legal counsel for Vista South of the Town's intent to conduct a hearing on June 4, 2018, to address Vista South's Motion for Reconsideration (the "Notice Letter").

The purpose of the hearing was to consider any additional information in support of the Motion for Reconsideration filed on April 25, 2018. The hearing was to consider arguments in support of the Motion for Reconsideration and not a hearing for public comments.

Each side was given 15 minutes to speak. Town staff's legal counsel gave a brief introduction then Vista South, LLC and Mountain Waste-South, LLC was provided 15 minutes for to make any arguments in support of the Motion for Reconsideration. The petitioners were also be given 15 minutes to respond to the Motion for Reconsideration.

Corey Hoffman spoke on behalf of the applicant (Town of Parker) and stated this was an opportunity for Vista South, LLC, and Mountain Waste-South, LLC to provide additional comments in support of the Motion for Reconsideration. The decision to annexation was made on April 16, 2018 based on evidence presented.

Brian Connelly, Otten Johnson Robinson Neff and Ragonetti, 950 17th St., Suite 1600, Denver, Colorado, attorney for Vista South LLC and Mountain Waste-South Metro, LLC, asked the Town Council to reconsider the Grasslands and Prairie Trail Annexation that was approved on April 16, 2018. His client is the sole non-consenting owner subject to the annexation. Mr. Connelly stated that the sole purpose of this annexation was to deprive Vista South from using his property for that which was permitted by right under the prior zoning in Douglas County.

Mr. Connelly continued by stating the legal positions were outlined in the hearing brief that was submitted at the April 16, 2018 hearing. Litigation has been filed in State District Court and Vista South will continue to pursue its rights under the law. It is their position that the Town's approval of the annexation violated Section 114 of the Annexation Act, which

required the Town to hold in abeyance any proceedings related to annexation one Vista South filed its petition for annexation into the City of Centennial. The City of Centennial had a statutory duty to process Vista South's annexation petition and its failure to do so does not absolve the Town Council of having to follow Section 114 of the Annexation Act. He stated that the annexation petition to Centennial was not a sham, but the only procedural way to protect itself from the Town's annexation process. Vista South was agreeable to being annexed into Centennial, so the petition was hardly a sham. This annexation could just as easily be characterized as a sham as it was done really for the sole purpose of depriving one landowner of its property rights.

Mr. Connelly further explained that the Town's approval of the PD zoning for this property is a clear violation of the State's PUD Act. It requires any landowner that is subject to a new PD to consent to the formation of the PD and Vista South did not consent.

Mr. Connelly stated that the annexation set bad public policy for the Town. He stated the annexation sends a message to landowners in and around Parker that their property rights and their careful investments are at risk. Vista South purchased its property after conducting careful due diligence. The property has been zoned for Vista South's use for 20 years.

Scott Eden, CEO of Mountain Waste and Recycling, 10100 E. 100 2nd Ave., Henderson, Colorado. Mr. Eden opened a trash business in 2010. He started with two trucks and 25 dumpsters and went door to door. Today, there are 218 employees and 85,000 customers are served in Aspen, Vail, Breckenridge, Summit County and Denver. The south metro area lacks the necessary infrastructure to deal with the tons of materials that are discarded daily. He stated he met with Douglas County staff in 2016 and they pointed him to two parcels of land in Compark. He purchased the land with a use-by-right. There are only two processing centers in all of Denver. They are both north of I-70 at 58th Avenue. He stated that Parker has sought to do everything in its power to circumvent the Douglas County process of his due process that was given by law to stop his project and steal the land use rights. The four properties could have been annexed without his property.

There were no comments from the Petitioners.

Corey Hoffman stated the purpose of the hearing was for Vista South, LLC and Mountain Vista-South LLC, to present with particularity the grounds on which judicial review is sought. What was heard tonight was an attempt to supplement a record already created on April 16. Staff would like to reinforce what was presented on April 16, 2018, which was supported by facts and the law. In addition, all records have been uploaded to the Town's Trakit system.

Since the April 16, 2018 public hearing at which the Town approved as an emergency Ordinance No. 2.259, the Town has adopted Ordinance No. 2.259.1, affirming the passage of Ordinance No. 2.259. This is in Trakit and reflects compliance with section 7.6 of the Town of Parker's Home Rule Charter regarding the annexation ordinance. Similarly, since the April 16, 2018 public hearing at which the Town approved emergency Ordinance No. 3.333, the Town has adopted Ordinance No. 3.333.1, affirming the passage of Ordinance No. 3.333. This was downloaded in Trakit and shows compliance with section 7.6 of the Town of

Parker's Home Rule Charter regarding the current zoning of the annexed property. He asked that the Court's Order dated May 15, 2018, in Douglas County District Court, Case No. 2018CV30354, where the Court denied the Motion for Reconsideration of the Courts original Order dated April 16, 2018, filed by Vista South, LLC and Mountain Vista-South, LLC, be made part of the record. That Court ruling relates back to a motion that was filed by the plaintiff before the April 16 hearing and requested the Court Order be made part of the record and will tender a copy of the Order to the Town Clerk. This is to assure that the Town's file and Trakit contains the information contained in Case No. 2018CV30354 regarding the unsuccessful attempt by Vista South, LLC and Mountain Vista-South LLC, to stop the original annexation hearing on April 16, 2018 from moving forward.

The Mayor closed the hearing at 7:52 p.m.

Joshua Rivero moved that Town Council take the Motion under advisement and defer making a decision until June 11, 2018.

Josh Martin seconded the motion.

The motion was approved unanimously.

Joshua Rivero moved that Town Council hold a special meeting on June 11, 2018, in order to issue a decision on the Motion.

Josh Martin seconded the motion.

The motion was approved unanimously.

ORDINANCES

A. ORDINANCE NO. 4.114.1 - Second Reading

A Bill for an Ordinance Amending the Vertical and Horizontal Alignment and the Grade of Kings Point Way from the Cottonwood Drive Intersection to Approximately 850 Feet North of Cottonwood Drive Intersection

Department: Engineering and Public Works, Chris Hudson

The Town would like to commence the construction of Kings Point Way north of Cottonwood Drive in 2018. Since this is a new Town roadway, the Town must establish the vertical alignment, the horizontal alignment and the grade for this roadway. Based on additional design effort by adjacent development, the profile of this roadway that was established in 2017 needs to be adjusted and an amending ordinance is required.

Public Comment: None

John Diak moved to approve Ordinance No. 4.114.1 on seconded reading.

Debbie Lewis seconded the motion.

The motion was approved unanimously.

B. ORDINANCE NO. 5.06.40 - Second Reading

A Bill for an Ordinance Repealing Section 12.02.120 and Amending Chapter 8.07 of the Parker Municipal Code by the Addition of New Sections 8.07.100 and 8.07.110 Concerning Unauthorized Camping on Public Property and Sitting and Lying Down in the Public Right-of-Way

Department: Police Department, Doreen Jokerst

The Town has seen an increase with urban camping. Currently, the only ban on camping in Town is on "park lands," which include "all public recreation lands, waters or facilities owned, leased or operated by the Town." This ordinance addresses camping on public property and provides that no citations will be issued for camping until a warning is given and there is no compliance. The ordinance also makes it unlawful for anyone to sit, kneel, recline or lie upon the public right-of-way during high traffic times; again, no citations will be issued until after a warning is given and there is no compliance.

Public Comment: None

Josh Martin moved to approve Ordinance No. 5.06.40 on second reading.

Renee Williams seconded the motion.

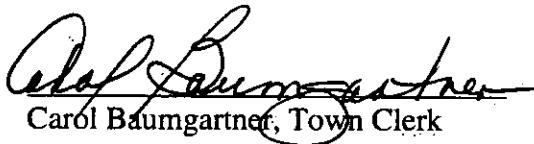
The motion was approved unanimously.

The Executive Session was reconvened at 8:07 p.m.

Debbie Lewis moved and Joshua Rivero seconded to adjourn the Executive Session at 8:31 p.m.

The motion was approved unanimously.

The Regular Town Council meeting was adjourned at 8:31 p.m.


Carol Baumgartner, Town Clerk


Mike Waid, Mayor

Prepared by: Chris Vanderpool, Deputy Town Clerk