

RECORD OF PROCEEDINGS

Regular Meeting of the Town of Meeker – January 23, 2024

The Regular Meeting of the Meeker Town Board was held Tuesday, January 23, 2024, at Town Hall.

Members Present	Mayor	Borchard Gutierrez Kindall Lockwood Nielsen
Town Staff Present	Administrator Town Clerk Attorney Police Chief Comm. Dev./Planner Liquor Clerk	Etheridge Cook Massih Thompson Thomson Ridgeway

CALL TO ORDER

Mayor Borchard called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

ROLL CALL

All Board members were present except for Trustees Day and Jehorek.

APPROVAL OF THE AGENDA

Mayor Borchard asked for changes to the agenda. Trustee Kindall made a motion to approve the agenda as presented. Second by Trustee Gutierrez. All ayes. Motion carried.

APPROVAL OF THE PREVIOUS MINUTES

Trustee Gutierrez made a motion to approve the minutes of January 9, 2024, as submitted. Second by Trustee Nielsen. All ayes. Motion carried.

APPROVAL OF MONTHLY DISBURSEMENTS

A motion was made by Trustee Nielsen to approve the disbursements dated January 23, 2024. Second by Trustee Kindall. All ayes. Motion carried.

PUBLIC PARTICIPATION

None.

STAFF UPDATES

Police Chief Thompson reported during the month of December 223 contacts were made resulting in six citations and two arrests; 2023 year end totals were 2,675 contacts, 79 citations and 29 arrests; there were five officers for most of the year and hired a new officer in November; spent several weeks training; and there are several ongoing cases that are still being investigated.

Public Works Superintendent Willey reported 10,400,000 gallons of water pumped during the month of December; the crew has been moving snow; Jak Kilduff is now the ORC (operator in responsible charge)

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for the water system and has been accepted by the State for that duty; staff has been training and working to remodel the Town shop to add a training room.

Community Development/Planner Thomson referred to her update provided in the Board packets and reported she is currently processing seven short-term rental applications which will be coming before the Planning Commission and the Board for permitting; she and Chamber Director Stephanie Hanson worked together to submit a Colorado Business Preservation grant for local businesses.

Town Clerk Cook reported she had been closing out the books for 2023 and preparing for the upcoming spring election; twelve petitions were taken out with seven returning; Mayor Borchard has indicated he will not be seeking another term and Travis Day is the only candidate for mayor; and there are six candidates for three trustee seats: Jessica Browning, Charles Day, Matt Franks, Trishia Granahan, Aubrey Perry and Kathleen Sizemore.

Town Attorney Massih reported she will be sending the administrator evaluation form to the Board and will place the item on the agenda for the 2nd meeting in February; she has been working on the SIA for Rohn Ridge and invited the Board to review the Town's template, and there will be court tomorrow.

PUBLIC HEARING

Consideration of Special Event Liquor License for Meeker Lions Club – Soil & Water Conservation annual meeting on February 10, 2024. Mayor Borchard opened the public hearing at 7:08 p.m. Liquor Clerk Ridgeway presented the staff report: the event will be held at the Fairfield Center, 200 Main St., on February 10th from 4:00 p.m. to 12:00 a.m.; Mark Rogers representing the Lions Club is present, Fay Seely will be the event manager; permission has been received by the County Commissioners for use of the facility; the public hearing was advertised; property posted and it is staff's recommendation to approve the application. Mr. Rogers clarified the application is for the Soil & Water Conservation annual meeting. Mayor Borchard asked for comments from the public or the Board. Hearing none, he closed the public hearing at 7:10 p.m. and called for a motion. Trustee Lockwood made a motion to approve the Special Event Liquor License for the Soil & Water Conservation's annual meeting on February 10th. Second by Trustee Gutierrez. All ayes. Motion carried.

Consideration of a Conditional Use Permit for a home occupation at 1308 Sage Ridge Road. Mayor Borchard opened the public hearing at 7:11 p.m. Planner Thomson thanked the applicants, Justin and Rebekah Grant, for being present and presented the staff report: the applicants are requesting a Conditional Use Permit to operate a home occupation at their residence 1308 Sage Ridge Road. The applicants have been operating as a business for approximately two years, this application is not for a new business but to bring their current business to be in compliance with the Municipal Code. The proposed home occupation is to offer fitness, personal training, and group workout services.

The property is located in the Single-Family Residential (SFR) zone in the Sage Hills Subdivision. Home Occupation is listed as a Conditional Review Use under the SFR zoning code. The applicants have submitted the required application and fee within the required time frame. The request has been advertised as required by the Meeker Land Use Development Code including notification of the Public Hearing to property owners within 300 feet of the subject property and in the Herald Times.

During the referral review period the only comments received from referral agencies were from the County Assessor that the area of the home and associated property will be taxed at a commercial rate instead of residential rate. Since receiving the application, staff has received no comments against the application and

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two comments in support of the application from John Strate at 1316 Sage Ridge Road and LaDonna Eubanks at 1302 Sage Ridge Road and read them for the record (attached to the minutes).

At their December meeting the Planning Commission unanimously recommended approval, by a vote of four in favor of and zero against, the Conditional Use Permit to operate a fitness, personal training, and group training services at this location with the following condition: that the home occupation is limited to the space described in the application as the applicant's attached garage. Any variation in this approval would be subject to approval by Town Staff. The Planning Commission found the application is in compliance with the following: The Conditional Use request meets the conditions of Meeker Land Use Development Code section 18.1.16 and 18.1.18 and the Conditional Use request meets the goals of the Comprehensive Master Plan. Town Staff concurs with the recommendation.

Mayor Borchard asked Attorney Massih to address the covenants who said the Town is not in the business of enforcing any homeowner association's (HOA) rules or subdivision covenants, any enforcement would be from a neighbor or the HOA. Mayor Borchard asked Mr. Grant if he had any comments, he had none. Trustee Lockwood referred to Mr. Strate's comments regarding parking. Planner Thomson said she had spoken with Chief Thompson, Code Enforcement Officer Haney, and Public Works Superintendent Willey if there had been any complaints and there have been none; the Land Use Code addresses parking for a home occupation and the applicant is in compliance. Trustee Gutierrez how much growth the business could sustain before it causes a parking issue. Mr. Grant replied the size of his garage cannot sustain much more growth and that their long-term plan is to build a gym on their property located of Shults Drive. Hearing no more comments, Mayor Borchard closed the public hearing at 7:18 p.m. and called for a motion. Trustee Gutierrez made a motion to approve the Conditional Use Permit for a home occupation at 1308 Sage Ridge Road. Second by Trustee Nielsen. All ayes. Motion carried.

Consideration of Retail Beer and Wine License for Family Dollar Store. Mayor Borchard opened the public hearing at 7:19 p.m. stating the purpose of the hearing was to consider a Beer and Wine Liquor license for Family Dollar Stores of Colorado, Inc., who is represented by Decisions Consulting, LLC, at 184 Market St. in Meeker.

Liquor Clerk Ridgeway presented the staff report as follows: the Board accepted the completed application on December 14th, 2023 and scheduled this public hearing; the hearing was posted at the property on December 28, 2023, and published in the newspaper on January 4th, 2024.

The Board will be considering the "Needs and Desires of the adult inhabitants"; the State has approved a Master File of background information and financial documentation for each principal of the corporation; there has not been a denial of an application at the location of 184 Market Street for the reason the reasonable requirements of the neighborhood and desires of the adult inhabitants were satisfied by other existing outlets.

Family Dollar Stores of Colorado Inc. has legal possession of the premises by way of a lease dated October 14, 2011; the license would not be in violation of any zoning or other applicable Town ordinances or laws of the State of Colorado; the building is not within 500' of any public or parochial school or the principal campus of any college, university or seminary; within the designated neighborhood there are the following existing outlets: five Tavern licenses, three Hotel and Restaurant licenses, three Retail Fermented Malt Beverage licenses, two Retail Liquor Store licenses and one Brew Pub.

The applicant is represented by Jonathan Crumly, executive officer of Decisions Consulting, LLC, who is present tonight. Liquor Pros, represented by Eva Garretson who is on the phone, conducted a survey on

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behalf of the applicant and collected signatures from 31 businesses resulting in 16 opposed and 15 in favor of the proposed outlet, ninety-two residential signatures were also collected resulting in 19 opposed and 73 in favor of the proposed outlet; a letter in support of the Family Dollar Store application was received from Rob Hossack of Decisions Consulting.

With respect to other evidence presented to the Town of Meeker: Dora Dunton, who is a resident of the Town, circulated a petition and collected 57 valid signatures all in opposition of the proposed outlet. Joe Sullivan, owner of Ol' Crows Liquor Store, collected 78 signatures from residents of the Town and patrons of his business, all in opposition to the proposed outlet; Mr. Sullivan is present tonight. Seventeen additional letters with signatures in objection to the license were received by the Town from residents and local business owners. One email from a resident, Toby Leavitt, was received by the Town in opposition of the application and was read for the record (attached).

A Colorado Open Records request was made by Town staff to State of Colorado Liquor Enforcement Division for any and all tobacco violations at Family Dollar Store #29133 in Meeker, Colo. which resulted in one offense dated January 26, 2023, for furnishing tobacco to a minor. Signatures on all petitions and letters were verified to be residents or business owners of the Town of Meeker. The review has shown the following: 187 signatures opposing and 88 signatures in support of the proposed outlet. Mayor Borchard questioned the tobacco violation stating the report indicated there were three violations; Clerk Cook replied there was only one citation issued. Trustee Lockwood asked if the Board should take into consideration the signatures; Attorney Massih replied yes, the Board is to consider all testimony heard at the hearing.

Mayor Borchard asked Mr. Crumly of Decisions Consulting, LLC if he had any questions of staff, he had none, and presented his report stating “one of the core principals that has made our country great is due process and equal protection is afforded to everybody and everyone is treated the same and I would appreciate on behalf of Family Dollar that we are treated the same as all other applicants that have come before this Board”; he then asked for Ms. Garretson to explain the petitioning process of Liquor Pros. Ms. Garretson went into great detail of their process stating Liquor Pros conducts surveys for both liquor and marijuana and have conducted as many as 4,000 surveys throughout the state of Colorado; they are a third party, unbiased petitioning company and listed by the State of Colorado for liquor training; Ms. Ridgeway did provide them with the Town’s petition and guidelines adding that their petition allows the signer to state the reason why they approve or disapprove the license; they also require identifying information such as age and they include businesses as well as residents.

Mr. Crumley asked Ms. Garretson if their petitioners go out with a predetermined outcome, she replied no, and we do not guarantee the outcome. Mr. Crumley said then it is an unbiased solicitation of the residents, and asked Ms. Garretson if they have ever received 100% in favor or opposed; Ms. Garretson replied no. Mr. Crumly asked if Ms. Garretson’s canvasser encountered a citizen that Miss Dunton had contacted by phone to come to her residence and sign the petition, another that stated she had passed the petition around after church and also noted they had observed a petition packet on the counter of Ol' Crows; Ms. Garretson replied that was correct, adding they had made 403 attempts to contact businesses and residents of the Town, not everyone wanted to sign the petition and others were not home so that is the reason a tally sheet is kept. Trustee Gutierrez clarified that 123 signatures were obtained out of 403 attempts; Ms. Garretson replied that was correct.

Mr. Crumly addressed the Board stating under Colorado Statute your duty is to consider all facts and evidence at this hearing about the needs and desires of the adult inhabitants of the Town of Meeker as it relates to this particular petition, another thing to consider is whether or not reasonable requirements have been met for this type of license and again please note from the staff report that this is the only Beer and Wine license, if approved, that would be in place in Meeker, I think it is fair to say the need for this type of

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license is evidenced by the fact there are no other licensed establishments with this particular license; as to the surveys and petitions, I think it is clear that the Liquor Pros survey is the only one that is an unbiased petition, and I would note for the record that the petition submitted by Mr. Sullivan explicitly provides no opportunity for anyone to say they are in favor of the petition and it also doesn't characterize the application and what type of license is being applied for; there is a vast difference in people's minds between beer and wine and hard liquor which Family Dollar has no intention of selling in the State of Colorado or any other state; it is a national campaign to obtain as many beer and wine licenses as possible. Mr. Sullivan's company is a license holder and he has an inherent bias as is comparative with his business, as human nature it is understandable but as a government authority you need to take that bias into consideration as to how those signatures were obtained; as to Ms. Dunton's signatures, in my mind there are several disqualifying attributes, her petition is again 100 % opposed, it clearly shows bias and there was an intent to gather only signatures of those who were opposed to the license instead of canvassing to find out what the citizens in Meeker prefer or desire, unlike the clear methodology of the petition submitted by Liquor Pros.

Mr. Crumly continued, as I said at the beginning equal protection and due process are very important concepts and the process that my client has been put through varies in significant ways as the process applied to other applicants; the first issue is the open records request from your Town Clerk and we verified this was the only time in which staff had made the request for tobacco violations of an applicant, there had been no other request of State Liquor and Tobacco to seek that kind of information, there has to be a reasonable reason that was done, I don't think it was nefarious but it is clearly different than what has been done and the way my client has been treated during this process versus others. I have also reviewed the records of the last couple of years of public hearings here in Meeker and want to note in those years five liquor applications were approved with no facts or evidence submitted either for or against, very similar to the special use permit that was done tonight for the Meeker Lions Club. The records generated by your town indicated not only were there no petitions but in several cases there was no public comment at all, so as you contemplate the evidence in this record I would ask that you weigh carefully how my client has been treated in this process and apply the same standards to this as you apply to all the other liquor applicants that come before you.

I think we have addressed all the other issues brought forward in our letter submitted in December, the company is very diligent about ensuring that all alcohol sales laws are complied with, we have a very good track record across the country in their stores of adhering to those laws with less than two and a half percent violation rate in literally thousands of stores in forty states that are licensed to sell alcohol. They have a zero-tolerance policy for inappropriate alcohol sales and they enforce that policy, if they were to get the license they would provide specific training for responsible alcohol selling comparable to TIPS, the internal policies of Family Dollar is very equivalent to that and they take alcohol sales very seriously. Final note in terms of potential competition under Colorado case law it is a speculative argument, the company did a survey in their Arizona stores that are licensed to sell alcohol and found that their customer profile doesn't change much between the stores that sell alcohol and those who don't, they simply have the ability to sell more per basket to their existing customers, the revenue for those stores goes up significantly so the decision for the company to do this in smaller stores like Meeker where their margins are very thin and to keep the doors open looking at every avenue they can to ensure it is a profitable store. Nationwide stores that are lagging are able to pick up the pace due to the alcohol sales and I am happy to answer any questions at all.

Mayor Borchard asked the Board for any questions. Trustee Nielson said staffing issues is a major concern as a lot of times there is no one at the counter and you have to ring a bell, it would be easy enough to pick up a six pack and walk out; as far as the tobacco violation there was the one reported a year ago which is no big deal but I would like to know a percentage of violations that other Family Dollar stores have. Mr. Crumly said he did not know the tobacco violation numbers as we help only with alcohol licensing.

Trustee Gutierrez said this store has many issues, staffing being only one of them, they open late and close early, rarely is there anyone at the counter, it's a place where children go to buy candy and the thought of

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alcohol there and no one really monitoring it I have problems with. I understand the two petitions were biased but a person such as Ms. Dunton decided on her own to carry a petition and go door to door or to her church I think we have to look at that, this meant something to somebody and it is important and do we need another place that sells alcohol in town. We have gone through other applicants with a lot fewer questions but they again don't have the background the Family Dollar has and as much as I appreciate being in business for myself and that it would increase the bottom line for Family Dollar, I don't know that it is a selling point here.

Trustee Lockwood asked, other than a few extra cameras the company has no other plans for staffing, other than the liquor training that is required? Crumley said they are always concerned about proper staffing whether they have a beer and wine license or not, the problem they have run into is the labor pool is very volatile and is not specific to stores who sell beer and wine, it is an issue they are dealing with in many stores. Trustee Lockwood clarified, with the addition of the alcohol there is no plan to hire more employees to ensure the safety of that store and its function? Crumley replied they do appropriately staff stores that sell alcohol in addition to the equipment they will provide, interestingly in the stores that sell beer and wine their shrinkage drops.

Mayor Borchard said while I appreciate your comments regarding training and working with staff, one of the most disturbing things to me were the comments made by Family Dollar staff member Mr. Rosier in the case report who did not know he was required to ID for tobacco or nicotine product sales, the other is that the application does not list owners or show anyone that has a local presence.

Clerk Cook addressed three statements made by Mr. Crumly as follows: if the license were approved, Family Dollar would not be the only business in town selling wine and beer, there currently are three other fermented malt beverage establishments whose licenses converted last year after a change in the State's code, they now have the opportunity to sell wine but have chosen not to; in response to the statement that staff has not requested information on tobacco violations for any other new license it is simply because we have not had an opportunity to, all of our current businesses have been established for many years and have held those liquor licenses, Family Dollar is the only new license application we have had that is currently selling tobacco products; the Town has always required any applicant for a new license to go through the petition process, not just Family Dollar, in fact if you recall we recently went through the petitioning process with Black Sulphur Tavern. Cook stated any time there is a brand new establishment we ask the applicant to go through the petitioning process, usually they circulate their own petition and supply it to the Town, we don't require it for Transfer of Ownership applications which the Town has seen many of over the last several years where the business is transferring ownership to new owners, that property has already gone through the petitioning process, it is only required when it is a brand new location.

Mayor Borchard asked if there was anyone in the audience who would like to speak in favor of the application. None.

Mayor Borchard asked if there was anyone in the audience who was a party in interest opposing the application. Joe Sullivan, owner of Ol' Crows Beer and Beverage at 1030 Market St., stated I am opposed to the application, mainly because I like to see our money stay local, they don't run well like has been said, I think their intentions are at a high level to make sure everyone is on the straight and narrow, but actually getting that done at a local level probably isn't going to come through especially if they have no one to answer at the local level. I have to answer to every one of you as a small business owner, whether it is for myself or one of my employees. I don't think there is value in it for our community with that being said, regarding my petition, I have never done one before so I just came up with something at the spur of the moment to see where it would go, so it does come across as being biased but I am pretty sure if you took their petition and went door to door across this whole town the numbers would get worse than what they show, they are better than what I assumed they would be. I don't think we need another liquor license we have a lot for no bigger than what we are, I don't see the need. Mayor Borchard asked the Board and the

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applicant if they had questions for Mr. Sullivan. Trustee Kindall asked how long Ol' Crow has been in business, Mr. Sullivan replied he has been there 16 years, but others remember the business in the mid 70's.

Bobby Gutierrez of 564 Larry Lane, stated he owns a business with his wife across the street from the Dollar Store, the canvasser came by our business several times but I missed her, I would be in opposition of it for the reasons stated and because of their employee struggles. I don't know how bringing something that will require IDing people and staff training will work there and asked the Board to consider the petitions that were presented. Mayor Borchard asked the Board and the applicant if they had questions for Mr. Gutierrez. There were none.

Hannah Borchard of 1440 Mountain View Road stated my husband Kevin and I own the lot next door to Family Dollar and the Brewery across the street from the lot which has a Brew Pub license. We are not a direct competitor of that license but as the list indicated they are all liquor licenses whether it is a tavern, brew pub, etc. so we have lots of opportunities in town to buy alcohol. Being a small business owner is tough. We have been in business for a couple of years now and it requires a lot of effort, love, time, and energy that goes into these businesses, not to diminish what Family Dollar offers, they do have great items for sale. As a next door neighbor I am concerned in that respect, we already deal with a lot of trash during the summer, not saying it is their fault as we are right on the highway we are also concerned about loitering, it is a dark lot and we really can't keep people out unless we put up a fence, those are some of the concerns I have and will acknowledge there is the competition aspect although we are different and offer a different dynamic in our establishment. Lastly the applicant talked a lot about the needs of the community, I was not presented with a petition, but my needs are fully satisfied by the liquor stores that are already here and that is my personal note, as a business owner I hope you consider denying this particular application.

Mayor Borchard asked Mr. Crumley if he had a rebuttal with respect to the issues raised during the hearing. Mr. Crumley requested the Board please focus on the criteria in the statute and asked for their consideration of the non-biased petition presented by Liquor Pros as compared to the other petitions and thanked the Board for the opportunity to do so and the kindness shown him during this hearing. Mayor Borchard asked for closing statements, Mr. Crumley had nothing to add.

Mayor Borchard stated one of the options for the Board was to continue the public hearing up to 30 days if you are not prepared to make a decision tonight, no one from the Board wished to continue the hearing. The Mayor closed the public hearing at 8:18 p.m. and accepted all documentation presented by the applicant and staff, explaining there could be a motion to approve with conditions, or if the motion is to deny the reasons for denial must be stated. He then called for a motion. Trustee Gutierrez made a motion to a deny based on the reasons given tonight, stating she had never seen this number of people opposing any kind of liquor license in town or this many people feeling as strongly as they do, I believe it is small town versus corporate and I believe the desires of our small town should prevail. Based on the desires of our inhabitants I make the motion to deny. Second by Trustee Lockwood. Trustee Nielsen stated he believes in a free market, let the customers decide where they want to shop and staffing issues are not our problem, it is not up to us. Aye: Gutierrez, Kindall and Lockwood. Nay: Trustee Nielsen. Motion to deny carried.

MANAGER'S REPORT

Administrator Etheridge reported there is a citizen who has volunteered to groom a trail for cross country skiing around Ute Park, we just have to work out the details for access as the set-up is a snowmobile with a small trailer to groom the snow and I just want to avoid the public thinking that motorized vehicles are allowed so we will coordinate on the timing and access. Trustee Lockwood stated he did not think there was going to be enough snow to be able to do it but wanted to make sure there would be no liability issues.

At the last meeting, we very briefly discussed MAMBA requesting that the Town partner as fiscal agent on a CPW grant for trail maintenance and I have been working with Carly Anderson (MAMBA President) and Regas Halandras (MAMBA VP) to iron out the details of the grant application to make sure that it is

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something the Town would be able to take on; the plan is to have them at the first meeting in February to address the questions. In talking to CPW, they want to make sure MAMBA is on solid ground before making an award.

Etheridge reminded the Board that the Chamber of Commerce is holding their Meeker Business Rally next Wednesday, they have a great speaker line-up of local organizations to talk about collaborating within our local economy as well as a guest speaker who is a Colorado-based travel writer, it should be interesting and new/different and it's not too late to RSVP.

Etheridge also pointed out the Year End Review compiled by Carly Thomson with information provided by department heads and thanked her and staff for putting this together.

MAYOR'S REMARKS

None.

OTHER BOARD BUSINESS

Trustee Lockwood brought up the subject of an electric fence at Ute Park to keep the cows off the trail, stating if we could just keep them off for one year and see what a difference it would make. After some discussion Board directed Administrator Etheridge to add it on the next agenda.

Trustee Nielsen reported he had received feedback that the letter from the Board provided to the Colorado Parks and Wildlife Commission made a big difference in their decision, he also commented on a CPW grant the Sportsmans club is applying for.

ADJOURNMENT

Mayor Borchard adjourned the meeting at 8:38 p.m.



Kent A. Borchard, Mayor

Attest:



Lisa Cook, Town Clerk