REGULAR MEETING

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. REVIEW AGENDA

V. CONSENT AGENDA
   a. Approve/Disapprove February 7 & February 21, 2017 Minutes
   b. Review/Consent of February 2017 Check Detail Report
   c. Approve/Disapprove March 7, 2017 Unpaid Bills Report
   d. Approve/Disapprove Mineral County Sheriff Gym Event Permit
   e. Approve/Disapprove Mineral County Sheriff Donation Request
   f. Approve/Disapprove CCF Private Event Permit – 4th of July Beer Garden
   g. Approve/Disapprove CCF Special Event Permit – 4th of July Beer Garden

VI. REPORTS & PRESENTATIONS
   a. Flume Public Meeting/Update – Dooley (verbal)
   b. Public Works Report – Ben Davis (verbal)
   c. LWCRCo Report – Catherine Kim (verbal)
   d. Recreation Report – Annkate Sledd (written)
   e. Written Reports (Building Inspector) - Read ONLY

VII. OLD BUSINESS
   a. Approve/Disapprove Employee Handbook 3.7.17 Revision
   b. Approve/Disapprove First Reading Ordinance 400 Allowing Property Owners to Voluntarily Elect to Use the 2015 IBC
   c. Approve/Disapprove RFP For Municipal Attorney Services

VIII. NEW BUSINESS
   a. Open and Award Bid VCMF Paint & Repair Project
   b. Approve/Disapprove Quote for RR R-O-W 5th Street to Hwy 149 [both sides or west side]
   c. ATV Route Discussion
   d. Approve/Disapprove Railroad Acquisition Request

IX. MANAGERS REPORT

X. ADJOURN

POSTED 3/3/17
REVIEW AGENDA

Item f, the CCF Private Event Application, was removed from the Consent Agenda for separate consideration. Trustee Wall moved and Trustee Dooley seconded to approve the agenda as amended. The vote was unanimous. Mayor Larson declared the motion carried.

CONSENT AGENDA

The consent agenda contained the following items:

a. Approve/Disapprove January 3 & January 17, 2017 Minutes
b. Review/Consent of January 2017 Check Detail Report
c. Approve/Disapprove February 7, 2017 Unpaid Bills Report
d. Approve/Disapprove Elks Multiple Special Event 2/17, 4/4, 10/31, 12/31/17
e. Approve/Disapprove Ladies Aid Memorial Bench Application
f. Approve/Disapprove CCF Private Event Application
g. Approve/Disapprove CAC Private Event Application

Errors were identified and corrected in the January 3 and January 17, 2017 minutes. A question was asked and answered about an expenditure to Dick’s Sporting Goods. Trustee Wall moved and Trustee Brink seconded to approve the consent agenda as amended. The vote was unanimous. Mayor Larson declared the motion carried. Trustee Wall moved and Trustee Dooley seconded to approve the CCF Private Event Application as presented. There were five yes votes and one abstention (Kim). Mayor Larson declared the motion carried.

REPORTS AND PRESENTATIONS

PUBLIC WORKS REPORT

Public Works Director, Ben Davis reported on the following items:

- The crew is keeping up with snow and snow storage.
- The V-Plow has been repaired and received by Public Works.
- The crew has been assisting gym staff with equipment installation and bringing the building up to code.
- Water and wastewater sampling is taking up more and more time.
- Ben answered questions about the old dump truck.

LOWER WILLOW CREEK RESTORATION COMPANY REPORT

The company is working with Mineral County Fairgrounds to facilitate access to their water right. A public process was taking place to design the new trail system and there will be a meeting at the Community Center on February 24th at 6pm to discuss the floodplain. The company plans to apply for a No Action Determination Letter this summer, and the process to convey the land to the city can follow receipt of that letter. Continuing work for LWCRCO by addressing the tailings piles has been discussed as a possibility.
Recreation Director Annkate Sledd was available for questions on her written report and to request direction on several projects. She was given direction to inquire about senior program funding and building improvement funding with Mineral County. Trustee Kim moved and Trustee Dooley seconded to approve a Capital Improvement expenditure not to exceed $5,500 to paint and complete minor repairs as described in her report less the locker room remodel. The vote was unanimous. Mayor Larson declared the motion carried.

OLD BUSINESS
APPROVE/DISAPPROVE ORDINANCE ESTABLISHING IBC POLICY
This item was tabled because no material was received. The Board of Trustees requested that the City Attorney be added to the February 21 Work Session for discussion.

NEW BUSINESS
APPROVE/DISAPPROVE DIRECTING TREASURER TO TREAT RECREATION INSTRUCTORS AS EMPLOYEES
Trustee Dooley moved and Trustee Wall seconded to direct the City Treasurer to treat recreation instructors as employees. The vote was unanimous. Mayor Larson declared the motion carried.

RESCHEDULE FEBRUARY WORK SESSION
Manager Dooley rescinded the request to reschedule the work session.

APPROVE/DISAPPROVE RESOLUTION 2017-02 AMENDING ACH AGREEMENT ATTACHMENT 2
Trustee Kim moved and Trustee Brink seconded to approve Resolution 2017-02 Amending ACH Agreement Attachment 2 as presented. The vote was unanimous. Mayor Larson declared the motion carried.

APPROVE/CONSIDER/SELECT GAZEBO DESIGN PROPOSAL
One proposal was received. After discussing the Gazebo design at length, the Board of Trustees directed Clerk Snead to work with the Anderson Inge to develop a proposal for consideration the February 21, 2017 work session which incorporated a more traditional roof structure and local materials.

APPROVE/DISAPPROVE REALLOCATING REMAINING VC FUNDS TO WEIGHT LIFTING EQUIPMENT
Trustee Kim moved and Trustee Brink seconded to reallocate remaining funds in the December 6, 2016 $20,000 Virginia Christensen Gym Equipment allocation towards additional gym equipment. The vote was unanimous. Mayor Larson declared the motion carried.

APPROVE/DISAPPROVE RESOLUTION 2017-03 GOCO TRI-PARK GRANT IMPLEMENTATION
Trustee Dooley moved and Trustee Wall seconded to approve Resolution 2017-03 GOCO Tri-Park Implementation as presented. The vote was unanimous. Mayor Larson declared the motion carried.

DISCUSSION/DIRECTION TRI-PARK & TRAIL LEASE
Trustee Kim reported that LWCRCo is working on a contract between LWCRCo and City of Creede to permit the GOCO work on the floodplain, and will present it to the board for consideration once its complete.

MANAGER'S REPORT
Flume Grant Contract: Trustee Dooley moved and Trustee seconded to approve the grant agreement between the State of Colorado Department of Local Affairs and City of Creede Project Award Number EIAF #8319. The vote was unanimous. Mayor Larson declared the motion carried.

City Equipment: Dooley requested and was given direction on selling several items of city inventory.

Dump Truck: Dooley was asked to gather estimates for selling the old dump truck, pursuing dump trailers and/or dump truck rentals, and other options for a new dump truck for the February 21, 2017 work session.
ADJOURN

There being no further business to come before the Board of Trustees at this time, Trustee Wall moved and Trustee Wyley seconded that the meeting be adjourned at 7:32 p.m. The vote was unanimous. Mayor Larson declared the motion carried.

Respectfully submitted:

/Randi Snead/

Randi Snead, City Clerk/Treasurer
SPECIAL MEETING

The Board of Trustees of the City of Creede – a Town, County of Mineral, State of Colorado, met in regular session in the Creede Town Hall at the hour of 5:30 p.m. There being present at the call of the roll the following persons:

TRUSTEES PRESENT: Lori Dooley, Kay Wyley, Catherine Kim, Jeff Larson, Teresa Wall, Dana Brink, Frank Freer

Mayor Larson, presiding, declared a quorum present.

Those members of staff also present were as follows:

Clyde Dooley, Town Manager
Randi Snead, Clerk/Treasurer

REVIEW AGENDA

Trustee Wall moved and Trustee Dooley seconded to approve the agenda as presented. The vote was unanimous. Mayor Larson declared the motion carried.

OLD BUSINESS

APPROVE/DISAPPROVE/DISCUSS SELECTION OF GAZEBO DESIGN PROPOSAL

Architect Anderson Inge was available by video conference. He gave a presentation of his proposal and answered questions. Trustee Wall moved and Trustee Dooley seconded to select Anderson Inge to provide design services for the pavilion/gazebo project. The vote was unanimous. Mayor Larson declared the motion carried.

ADJOURN

There being no further business to come before the Board of Trustees at this time, Trustee Wyley moved and Trustee Brink seconded that the meeting be adjourned at 6:07 p.m. The vote was unanimous. Mayor Larson declared the motion carried.

Respectfully submitted:

/ Randi Snead/
Randi Snead, City Clerk/Treasurer
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MEMO

DATE: March 3, 2017
TO: Mayor and Board of Trustees
FROM: Randi
SUBJECT: Meeting Notes

Gym Event Donation Request: Fred has requested that we waive the rental fee for After Prom.

Employee Handbook: The entire Drug & Alcohol Policy will be stricken and Eric’s language will be added with any adjustments you may have. While we are updating once again, I took the opportunity to add a few more housekeeping items-

-Strike sentence with “Grievance Procedures” at the top of page 10. The actual Grievance Procedures section was removed back when we approved this handbook in 2014 because it is in conflict with at will employment (implies a more contractual relationship), but I neglected to remove this reference to it.

-Strike sentence with “Grievance Procedures” at the top of page 10. The actual Grievance Procedures section was removed back when we approved this handbook in 2014 because it is in conflict with at will employment (implies a more contractual relationship), but I neglected to remove this reference to it.

-In that same vein, for some reason, in our leave policy, I had the phrase “in the employee’s contract,” and since no employees have contracts, I figured we should strike that too for consistency

-The ICMA recommends that we use language in the acknowledgement that the employee has received and *understands* the handbook, so I’ve added the language “and I understand its contents” to the Acknowledgement on Page 17.

I’ve again only included the pages with changes in the packets for simplicity but the entire document is readily available for review; let me know if you would like me to send it to you.

IBC: Please note that in the February BI report, R. Weber input was requested on IBC policy:
“T approve of the use of a newer version of IBC for specific projects. The new version meets or exceeds the version we use and is practical in this situation”

RFP: I didn’t get an opportunity to get this from Clyde before he had to leave, so I took the one we used in 2011 and updated the dates only as a starting point.

ATV Route: I’ve added this per your request 2/21. I’m not sure if changes are being proposed, but I’ve included our existing info handout, which Ron has agreed to include on the back of the grocery flyers a few times this spring/summer.
GYM EVENT PERMIT APPLICATION
City of Creede
2223 N Main Street
Creede, CO 81130
(719) 658-2276

Kitchen Facility Rental ($75.00/Day)        Gym Rental ($100.00/Day)

Name: Fred Hasselkus

Address: 1201 North Main

Business/Organization (if applicable): Mineral County Sheriff

Phone: 719-658-2000 Email: sheriff mínimo1234@erail

Description of Event: After Prom

Date and Times of Set-Up: April 22, 2017
Date and Times of Event: April 23, 2017 12AM - 5AM
Date and Times of Tear-Down: April 23, 2017
Specific Areas of Gym Required for Rental: everything but the locker rooms

Estimated Number of People Expected to Attend this Event: 50

I have read, fully understand, and agree to the terms of this Private Event Permit, any attached pages, and the City of Creede's Public Property Event Policy and Procedures:

Applicant: [Signature] Date: Feb. 9, 2017

Senior Lunch Program Approval: [Signature] Date: Feb 14, 2017

Pre-Event Site inspection by: City Applicant Date and Time:

Post-Event Site inspection by: City Applicant Date and Time:

FOR ADMINISTRATIVE USE ONLY

Application Received Feb 14, 2017 Fee $50 Date Paid

License Agreement Attached? Y ☐ N ☐ Proof of Insurance Attached? Y ☐ N ☐

Board of Trustees Meeting Date 3/7/17

Approved by Board of Trustees this ______ day of __________________, 20 ______

Attest: ____________________ City Clerk
To: City of Creede  
Re: Creede School After Prom  
Date: Feb. 8, 2017

It may feel like we are still in winter but the 2017 Creede School Prom and After Prom are just around the corner. This year's Prom and After Prom is scheduled for April 22, 23, 2017. Again this year, the Mineral County Sheriff's Office will be sponsoring the After Prom.

This event was first organized in 2007 by the Sheriff's Office to help give our young people a place to go after the Prom and prevent potentially serious issues that may occur later in the evening. We as Law Enforcement, the Creede School, community and parents need to work together to do whatever we can to keep our young people safe and out of harm's way.

This is a lock down event, meaning the students cannot leave without the parents coming to get them or an officer escorting them home with parent's permission. The event will start immediately after the Prom on April 22, 2017 and conclude at app. 4:30am on April 23, 2017.

We will again be working with Fun Productions and as always we need your help in funding this activity. We rely strictly on donations to help pay for the evening and this year our target amount for the equipment/food will be $5,400.00. Many of you have been so generous in the past and we hope you can again help us out this year. This event was put on in Lake City in 2016 since the two schools work together is sports and other activities like the Prom.

Any and all donations are greatly appreciated. We also need help with food and door prizes. If you have more time than money we can always use you as a chaperone.

Checks can be made out to: Mineral County Sheriff's Office, P.O. Box 454, Creede, CO 81130

Any questions please call: 719-658-2600

Again Thanks,

Fred Hasselkus
Mineral County Sheriff
PRIVATE EVENT PERMIT
APPLICATION

City of Creede
2223 N Main Street
Creede, CO 81130
(719-)658-2276

Name: 4th of July Beer Garden
Address: P.O. Box 754 Creede, CO 81130

Business/Organization (if applicable): Creede Community Foundation & Headwaters Alliance
Phone: [Redacted] Email: commun@creede.com

Description of Event: Beer garden at Basham Park during the Days of '92 mining events

Date and Times of Set-Up: Sunday July 2, 2017 12 PM-8 PM

Date and Times of Event: Monday July 3, 2017 8 AM-8PM and Tuesday July 4, 2017 8AM-8PM

Date and Times of Tear-Down: Wednesday July 5, 2017 8 AM-12PM

Location of Event: Days of '92 area in between Basham Park and the Kentucky Belle Market (attach map if applicable)

Estimated Number of People Expected to Attend this Event: 500+

I have read, fully understand, and agree to the terms of this Private Event Permit, any attached pages, and the City of Creede's Public Property Event Policy and Procedures:

Applicant

City Clerk

SHERIFF'S DEPARTMENT NOTIFICATION:

Pre-Event Site inspection by: City _______ Applicant _______ Date and Time:

Post-Event Site inspection by: City _______ Applicant _______ Date and Time:

FOR ADMINISTRATIVE USE ONLY

Application Received 2/23/17 Fee $50 Date Paid 2/23/17

License Agreement Attached? Y ☐ N ☒ Proof of Insurance Attached? Y ☐ N ☐

Board of Trustees Meeting Date 6/17/17

Approved by Board of Trustees this _____ day of ____________, 20___

Attest: City Clerk
Actual Consumption Area
Control Staff, Fencing, & Gate
Total Special Event Premises
City of Creede, a Statutory Town
Liquor License Summary

Note: Liquor License forms contain a mixture of confidential and public information. In an effort to protect the confidentiality of items such as Social Security Numbers, Drivers License numbers, and dates of birth, liquor application forms will no longer be available to the public. This summary is intended to give the Board of Trustees and citizens the public content of the issue at hand.

Type of Action Requested: Approve Special Events Permit to sell malt, vinous and spirituous liquor at a special event.

Applicant: Creede Community Foundation

Current Licensee: Same.

Factual Findings:
- Time, date and type of events to be permitted:
  - July 3 & 4, 2017, 8AM-8PM
  - Days of ’92 Mining Events Beer Garden
- The premise for the event is Basham Park Days of ’92 Arena as shown on attached map including vendor area. Alcohol is controlled to the Basham Park Area. Applicant is applying for a concurrent Private Event Permit for permission to use the premises.
- Applicant is a non-profit in good standing with the State of Colorado
- Applicant is eligible to apply for a Special Events Permit.
- The location is eligible to be licensed.
- Character of the applicant is not an issue for this request.
- All applicable fees have been paid.
- These are events 1 & 2 of 15 allowable special events in 2017.

Recommended Action
Consider approval of a multiple-date Special Events Permit for Creede Community Foundation.
February Financial:
For the month of February, the Parks and Recreation Department brought in a total of $2,781.40 as follows:

**Membership Fees:** $516.00  
(monthly passes, daily use)

**Registration Fees:** $743.00  
(volleyball, dance)

**Fundraisers:** $183.50  
(chili dinner, donations)

**Gym Rentals:** $60.00  
(birthday parties)

**Special Programs:** $108.90  
(movie night, valentines day)

**4th of July Vendors:** $1170.00

Current Programs:
February’s schedule consisted of new and old programs. We continued adult volleyball, Country Heat/HIIT, movie night, open gym, and the lunch strength series. New in February were ballet/tap dance classes and pickleball. Spring dance currently has 22 participants enrolled. We typically see about 10 pickleball players show up each week.

Upcoming Programs:
Beginning in March, Parks and Recreation will begin youth wrestling (March 1) and peewee soccer (last week of March). Also new to the schedule (March 2) is spin class taught by Amy Romero. Wrestling will be Wednesdays at 4:30 and Spin class will have 2 classes per week on Tuesdays and Thursdays.

Facility Updates:
All new weight equipment has arrived, and the last few pieces are being put together this week. Once finalized, the weight room will consist of a treadmill, recumbent bike, spin bike and elliptical for cardio health. For weight lifting, we have a large variety of dumbbells and kettlebells, the multi station gym, a bench press, and a squat rack with bars and a 400lb weight set.

I spoke with 3 men who will be sending in bids for the gym improvement project. Mid-February I discussed the improvements of the entry hallway with the Mineral County Commissioners. The commissioners have agreed to pay half of the cost of improving the senior lunch hallway and entryway up to $2,500.00. They initially wanted to tear out the paneling in the hallway and paint over that area. However, after reading the inspection report from when the facility was purchased, I don’t think that is an option due to asbestos issues.

Requests/Proposals:
Below are a few items I would like to ask the Trustees to consider:

1. **Old school lunch tables** - in last month’s report I mentioned getting rid of 4 or the 7 old lunch tables that are stored in the gym. Parks and Recreation does not have a need for all 7 of these tables and they are taking up quite a bit of space.

2. **Bleachers** - In order to free up some much needed space in the gym, I would like to remove some sections of bleachers. Eloise has mentioned that the Fairgrounds may be interested in some of them. Is removing them something the trustees approve of, and if so, should we sell them or give them away?

3. **Rock Wall** - Brian Hughes has approached the Recreation Department about the possibility of installing a rock wall in the VCMF. Brian will be attending the March 3rd Trustee meeting to discuss this further.

4. **Hostel** - I was approached by a member of our community with the idea of using the gym facility as a hostel for events that take place in town every year. Attached is a small write up with more information.
Hostel:
I would like the opportunity to discuss the options for creating a hostel that operates out of the gym during peak travel times. This meets the needs of those who visit our community for specific events throughout the tourist season. In theory, the Parks and Recreation Department would use the gym as a hostel during high traffic weekends such as the music festival, 4th of July, the Runoff Runoff, and other annual events. Having a local hostel would bring in more young people who may not be able to afford to travel to these events under other circumstances. Operating a hostel out of the gym facility would bring more people to the town, which would generate revenue for multiple businesses in our community, as well as the Parks and Recreation Department. During these summer events, operating the hostel a few weekends a summer would not hinder any recreation programming.

Initially, the Recreation Department would offer sleeping space for individuals who bring their own sleeping bag, cot, or air mattress, and possibly a continental breakfast. If the service began to take off, we would have the option of purchasing inexpensive camping cots to rent out for a slightly larger fee. The gym is a great facility to offer this type of service due to the large area for people to sleep, as well as access to showers and bathrooms. If the each visitor of the hostel paid $15 per night for a sleeping spot and light breakfast, in one weekend the facility could potentially generate over $500.00. Doing this for 3 or 4 weekends of the year would greatly add to the revenue of the Recreation Program. If this program proved financially sustainable, we could expand to being open a few weekends in the winter to accommodate Wolf Creek guests.

Potential Expenses/ Revenue Projection: (full weekend)

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If 30 people stayed a full weekend, the hostel would profit approximately $400.00, even if we couldn’t find volunteers and had to pay someone to stay at the gym during these times.

This idea has the potential to bring in extra revenue for the Recreation Department and the City while still being low maintenance. If visitors of the hostel bring their own sleeping bags, mattresses, etc, the rec department is not out a much money if it there aren’t many guests. We would purchase continental breakfast for the number of people actually staying, and would have the option of not opening as a hostel any other weekends. Since no renovations or equipment needs to be purchased, it is a low risk endeavor.
TO: Clyde Dooley, Town Manager; Tami Tanoue, CIRSA  
FROM: Eric J. Heil, Esq.  
RE: Adoption of 2015 International Building Code  
DATE: February 20, 2017

SUMMARY: Attached is a draft of a Drug and Alcohol policy. By and large, it tracks the sample policy provided by CIRSA. My revisions are described as follows:

- In many sections I have designated the City Manager as the decision-making person. I removed the term “department head” but kept “supervisor” as I believe you have at least one supervisor. In several places, I added that if the City Manager is the employee by which reasonable suspicion exists or if the event of accident or incident, the Mayor or Mayor Pro-Tem can order reasonable suspicion testing.

- The term “corrective action” was revised to “disciplinary action” for consistency with the Creede Employee Handbook. NOTE: It is legally sufficient to state once at the beginning that an employee who violates the Drugs and Alcohol policy is subject to disciplinary action, including termination of employment. It is a community preference if you want the policy to repeat this several times as a warning or if stating it once is sufficient.

- 2(b) Safety-sensitive employee was revised to also include CDL employees, which then reads more consistently with the random testing requirements in 3(c)(iii).

- Under 2(b), the Safety-Sensitive employee positions should be added. I understand this would include three employees, but not the City Manager, Town Manager or Recreation Director.

- Under 3(c)(iii) I have added the minimum frequency for random alcohol and drug testing each year that is in the existing policy as well as additional language to clarify the determination of the number of employees who are subject to random testing. I understand there are 3 employees who would qualify as Safety-Sensitive employees.

- 3(e)(i) requires reasonable suspicion testing for alcohol within 2 hours. Practically, this may require testing by the Sheriff’s department, if that is possible. I don't know what is readily available in Creede for alcohol testing.

- 3(h)(ii)(A) I revised to add suspension “with or without pay” so that the City has discretion to take whatever disciplinary action it believes is appropriate.

OTHER CONSIDERATIONS: The Disciplinary Action and Discharge section of the Employee Handbook does not describe forms of disciplinary action such as suspension with or without pay, demotion and letters in the employee's personnel file. I think this would be helpful for guidance. Also, the Suggestions and Complaint section references “Grievance Procedures,” but I don't find any such Grievance Procedures in the Employee Handbook.
LEGAL ANALYSIS: I reviewed case law concerning drug and alcohol testing. Generally, I do not see any legal concerns with the reasonable suspicion testing, the biennial CDL employee testing in conjunction with a random testing program, or the consent to drug and alcohol testing as a condition of employment. Courts are most focused on “suspicionless” drug testing and have established balancing tests between legitimate government interests and an individual's rights to privacy under the Fourteenth Amendment and constitutional limitations on searches under the Fourth Amendment.

In 1997, the US Supreme Court in Chandler v. Miller stated that first the government must demonstrate a “special need” for random testing. The US Supreme Court in Chandler struck down a Georgia law that required candidates for state office to submit to drug testing before qualifying for nomination or election. The demonstration of a “special need” generally involves a demonstration (1) of problem of drug abuse or a particular risk posed to the public by potential drug or alcohol abuse along with (2) a random testing program that is effective as a deterrent to drug and alcohol use.

TESTING ALL CITY EMPLOYEES: The holding in Chandler is the reason why general office workers and the recreation center director do not qualify as “safety-sensitive employees” and are generally excluded from random testing. Specifically, based on court rulings, it is unlikely that occasionally driving a City vehicle or occasionally driving a personal vehicle on City business presents a sufficient risk to public to uphold random testing. That said, it may be legally possible to establish a drug and alcohol policy that included all City employees if Creede could document drug and alcohol problems in the City workforce and/or in the general community, acknowledge that Colorado has legalized marijuana use and document any increased usage generally, and identify the specific risks posed the public of drug and alcohol use for each City employee position. The CIRSA materials do recognize that drug and alcohol testing policies that apply to all public entity employees are likely invalid.

If Creede desired to include all City employees in a random drug testing program it should recognize that it would likely serve as a test case and could expect the ACLU to defend any employee that was not a traditional safety-sensitive employee who was disciplined or terminated by the City. As discussed below, there is ample legal precedence that including all employees in a random testing program only for the sake of egalitarianism amongst employees is not legally defensible. Rather, each specific City employee position must be analyzed and justified on its own. It is likely that the US Supreme Court will have a majority of conservative justices that will interpret the 4th and 14th Amendments more narrowly than past courts and therefore it may be more likely that the Supreme Court would uphold a drug and alcohol policy that includes an expanded view of “safety sensitive” or “security sensitive” employees.

SPECIFIC POSITIONS: Office/Administrative/Clerical/Custodial Workers: Including general office workers who occasionally drive on City business is the most difficult to defend. In Bolden v. SEPTA, the 3rd Cir Court of Appeals rejected random testing for maintenance custodians, but noted that random testing of police officers was permissible. In Romaguera v. Gegenheimer, a District Court in the Louisiana held that random testing of court office workers was not constitutional and noted that other courts held that random testing of correction workers who had contact with inmates was permissible, but testing of correction workers with administrative duties and no contact with inmates was not permissible. These clerical and administrative positions presumably include some amount of driving as part of the job duties. In Harmon v. Thornburgh, the Circuit Court of Appeals in D.C. struck down a random testing plan for Department of
Justice in "sensitive" government positions, and held that in order to rationalize drug testing for public safety reasons, there must be an immediate threat that a single mistake could have disastrous consequence.

Although these cases are in Circuits other than the 10th Circuit, there is ample precedence that holds requiring employees with administrative and clerical office positions to submit to random drug testing is NOT legally defensible. That said, it is possible to make an argument for an expanded view of "safety-sensitive" and "security sensitive" employees in the 10th Circuit, and if such argument prevails and is inconsistent with other Circuit Courts, then it is more likely that the US Supreme Court would consider the case.

**Recreation Director**: It may be legal defensible to include the Recreation Director in the random testing program if the position involves working with minor children in an unsupervised capacity. However, case law supports the need to truly document the potential public risk, which can be done by documenting instances within the community or compiling studies and information on the risk and occurrence of drug and alcohol related problems with such positions. The US Supreme Court in *Skinner v. Railway Labor Executive Assc.* upheld the reliance on nationwide information of drug and alcohol problems in the railroad industry rather than specific instances of problems on a particular railroad to support a random testing program. Creede would need to further research and gather information of potential risks to the public associated with this position.

**Commercial Vehicle Drivers**: The 9th Circuit of Appeals upheld random testing on commercial motor vehicle drivers in *International Brotherhood of Teamsters v Department of Transportation*. Generally, courts have upheld random testing policies for commercial vehicle drivers, heavy equipment operators, pilots, train engineers, police and other employees who carry fire arms, employees with national top secret access, employees who work in the field of drug and alcohol enforcement, and employees who have contact with inmates. Requiring commercial vehicle drivers and operators of heavy equipment to submit to random drug testing is legally defensible.

**Legal Liability and Costs**: Although the City has coverage with CIRSA, the City should expect that any legal challenge will create legal costs for the City to defend as well as potential liability for damages if the City's policy is struck down. A legal challenge would typically arise if and when the City took action to discipline or terminate an employee on the basis of testing results or, more likely, for an employee refusing to submit to a random test. Wrongful termination of a mid-level position can easily result in a damages award against the City of several hundred thousand dollars.

**RANDOM TESTING PROCEDURES**: In 1998 the 10th Circuit US Court of Appeals ruled in *Solid Waste Department Mechanics v City of Albuquerque* that testing of mechanics that worked on city trash trucks once every four years upon renewal of a CDL was not constitutional. The Court found that there was a legitimate risk posed to the public by potential drug and alcohol use of mechanics of city trucks, but that the testing scheme was predictable and too infrequent to act as a deterrent. Therefore, random testing procedures in which the testing time and date are not predictable is an important criteria.
FREQUENCY OF RANDOM TESTING: I found little guidance on when the frequency of random testing is so great that it is an unconstitutional infringement on rights of privacy and freedom from unreasonable searches. The US Supreme Court in *Vernonia School District v. Acton* upheld a student-athlete testing program that included a random test of 10% of the athletes each week. The Court in *Acton* acknowledged that minor children in school have reduced privacy expectations compared to adults. Based upon examples of the frequency of random testing that has been upheld, I do believe it would be defensible to increase the frequency of random testing in the draft Policy from the stated percentage each year to each 6 months.

CONCLUSION: The draft Drug and Alcohol Policy does allow for reasonable suspicion testing of any employee who exhibits any signs of drug or alcohol use while working or is involved in an accident or incident per the Policy guidelines and testing of an employee as a condition of accepting employment. A legally defensible Drug and Alcohol Policy should subject only safety-sensitive employees to random testing.

RECOMMENDATION: As a small community, Creede relies heavily on CIRSA for both liability coverage and legal defense; therefore, it would be practical for Creede to stay well within the boundaries of a legally defensible drug and alcohol policy. I recommend adopting the draft Drug and Alcohol policy with consideration for increasing the random testing frequency from once each year to once each 6 months.

Thank you, Eric
DRUGS AND ALCOHOL

The City of Creede is a drug-free workplace as required by the Drug-Free Workplace Act of 1988, 41 U.S.C. 702. It is both the City of Creede's and each employee's responsibility to maintain such an environment. The manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace. An employee's violation of this prohibition, or any other drug abuse violation, may result in disciplinary action up to and including immediate discharge. Alcohol, its influence or affect will not be permitted during on-duty hours, which include overtime and response to off duty calls. Violation of this requirement may be cause for immediate discharge. The City Manager or an immediate supervisor may require drug or alcohol testing when he/she has a reason to believe that an employee is under the influence, has been engaging in illegal drug activity, or has been involved in an incident/accident or prior to employment at the City of Creede. Refusal to take a test when required may lead to consequences up to and including separation from employment.

Additionally, drug & alcohol testing shall be conducted on a random basis on safety sensitive employees at unannounced times throughout the year. Date and employee randomization shall be provided by Forward Edge. A safety-sensitive employee is defined as an employee who operates or may operate City-owned vehicles or performs other tasks which put the employee in a position in which they are responsible for the safety of other employees or the general public. Safety-sensitive employees shall be randomly tested as follows:

(1) One hundred percent of all safety-sensitive employees in the testing pool will be tested for drugs and alcohol each year; and
(2) Twenty-five percent of all safety-sensitive employees in the testing pool will be tested for drugs and alcohol every six months.  

USE OF CITY OF CREEDE PROPERTY AND VEHICLES

City of Creede property is to be used only for official City of Creede business, in an appropriate and safe manner, and in accordance with all applicable rules, operating procedures, and directives. No employee shall remove City of Creede property or the property of any other employee from the City of Creede premises or the City of Creede work sites without proper authorization. Any employee who steals City of Creede property or the property of any other employee, or who abuses, misuses, damages, or destroys City of Creede property, shall be subject to discipline, up to and including discharge.

Only authorized, qualified, and licensed City of Creede employees may operate City of Creede vehicles. All vehicles shall be operated in accordance with all applicable traffic laws, and vehicle operators shall be responsible for the condition and proper use of their vehicles. Employees receiving traffic tickets or other citations involving the operation of City motor vehicles are responsible for the paying of all fines and other punishments resulting from such traffic tickets or citations. All employees operating City vehicles are required to use seat belts. No cell phones or texting on a mobile device are to be used when operating City Vehicles unless an emergency exists. No personal errands are permitted while using a City Vehicle. Unauthorized or improper use of City of Creede vehicles may result in discipline, up to and including discharge. The City of Creede reserves the right to review an employee’s driving record at any time.

City personnel have no expectation of privacy in City property and equipment. Such property and equipment include, but are not limited to any electronic resources provided by the City, such as computers, telephones, cell phones, smart phones, and pagers. Furthermore, City personnel have no expectation of privacy in any messages, data files, programs, or information stored in, transmitted in, or received by such electronic
Should a problem arise that is job related, an employee discuss the problem frankly with an immediate supervisor. After every effort has been made to discuss and solve a problem with a supervisor, an employee may choose to follow the procedure outlined in “Grievance Procedures.”

SEPARATION FROM EMPLOYMENT

Resignation is a voluntary act of separation from employment initiated by the employee. The employee shall give the employee’s supervisor at least ten (10) working days’ prior notice of resignation. An employee in an administrative or supervisory position shall give at least thirty (30) days notice of resignation. An employee who is retiring from the City of Creede should give ninety (90) days notice of such retirement if at all possible. Upon resigning or retiring, employees shall be paid the appropriate value for vacation leave, sick leave, holiday, compensatory time and overtime. Total benefits to be paid upon termination will be paid out incrementally in a manner that does not exceed the amount equal to a pay period unless prior arrangements are made. An employee, who, without prior authorization, fails to report for work for three consecutive working days, shall be considered to have abandoned the position as of the end of the third consecutive day. Pay will not be granted for the three days of absence unless covered by earned vacation time or one-day personal time.

When warranted by changes in the City of Creede’s operations or by fiscal circumstances, the City of Creede’s pay plan may be amended to impose a reduction in force in one or more departments. The City Manager shall then notify the affected employee or employees at least thirty (30) days in advance of such reductions.

DISCIPLINARY ACTION & DISCHARGE

Occasionally, management determines that disciplinary measures are necessary. Disciplinary actions can range from a formal discussion with an employee about a matter to immediate termination. Action taken by management in one individual case does not establish a precedent in other circumstances.

EMPLOYEE COMPENSATION AND BENEFITS

PAY SCHEDULE

Unless otherwise authorized by the Creede Board of Trustees, pay periods for all City of Creede employees are the 1st day through the 15th day of each month, and the 16th day through the last day of each month. Employees will be paid on the 15th day and the last day of each month. It is the responsibility of each supervisor to have all time reports on the desk of the City Clerk no later than 10:00 a.m. on the 14th and day prior to the last day of the month. If either of these days falls on a weekend or holiday, paychecks will be issued the last workday before the scheduled payday. Direct deposits are available to all employees on a voluntary basis and will allow for an employee’s earnings to be deposited directly into the bank of their choice.

SALARY REVIEW

Compensation of employees of the City is set on an annual basis by the Creede Board of Trustees of the City of Creede, and made a part of the annual budget. The Creede Board of Trustees adopts the City budget each December for the following year. Changes in employee salaries are recommended by the City Manager to the Board of Trustees during the budget process. Any adjustment made in employee’s salary either by way of increase, decrease, or no change, are at the complete discretion of the Creede Board of Trustees.
If an employee is ill for four or more consecutive workdays, a doctor’s release (or notification from the Mineral County Health Clinic) must be obtained stating that the employee is fit to return to work and submitted to the City Manager immediately upon return. For illnesses lasting five or more consecutive workdays, please see “Extended Medical Leave.”

EXTENDED MEDICAL LEAVE

An extended medical leave of absence is available to eligible employees for up to 4 weeks paid leave and up to 8 additional unpaid weeks for a total of up to 12 weeks in a calendar year under particular circumstances that are critical to the employees or their family members.

Leave may be taken:
- On the birth of an employee’s child;
- On the placement of a child for adoption or foster care with an employee; or
- When an employee is unable to perform at least one of the essential functions of their position because of the employee's own serious health condition.

To be eligible for leave under this policy, an employee must be a full-time, year round employee, and employed at the City of Creede for at least 12 months prior to a request for paid leave.

The City will require medical certification to support a claim for leave for an employee's own serious health condition. The certification for an employee’s own personal medical leave must include a statement that the employee is unable to perform at least one of the functions of his/her position. Employees who are ill will be required to provide a Doctor’s report on their health status every two weeks.

When the need for leave is foreseeable, such as the birth of a child, the employee must provide 30 days notice to the City Manager. A spoken or written leave agreement may be reached between the employee and the City Manager addressing minimization of impact of the employee’s leave, plans for temporary fulfillment of duties, an anticipated return-to-work timeline, accommodations for intermittent or reduced-leave or working from home, and any other concerns either party may have. In the event that leave is required but not foreseeable, verbal and written notice should be given to the City Manager, as soon as practicable.

Employees can use available Vacation and Personal leave to extend paid leave. All Vacation and Personal days must be used to extend paid leave before any unpaid leave can be taken, and the combination of paid leave, unpaid leave, and vacation and personal leave may not exceed 6 weeks in one year.

Group health care coverage will continue for employees on extended leave as if they were still working for 6 weeks. Employees who are granted an approved leave of absence beyond 6 weeks under this policy must make arrangements to pay their share of premiums, if there are any, during the absence.

The provisions of this policy will govern all paid family and medical leave unless modified in the employee’s contract or negotiated by the employee and City Manager before or at the time of required leave.

OTHER LEAVE

MILITARY LEAVE
ACKNOWLEDGEMENT OF RECEIPT
OF THE CITY OF CREEDE’S
EMPLOYEE HANDBOOK

This acknowledges that I have received a copy of the City of Creede’s Employee Handbook, dated November 1, 2016 and I understand its contents. I understand that this Handbook is only a guide to the ordinances, resolutions, and other laws applicable to my employment, and that this Handbook is neither an express nor implied contract of employment and that the City remains free to make such changes in its personnel policies, including but not limited to any matters addressed in this Handbook, without prior notice and in its sole discretion.

I understand that it is my responsibility to read and become familiar with this Handbook’s contents. I agree to abide by the above, as a condition of my employment, as well as all written policies, rules, and regulations that are in effect or that may become effective during my employment.

Printed Name: ________________________________

Signature: ________________________________

Date: ________________________________
DRUG AND ALCOHOL POLICY
DRAFT FOR CITY OF CREEDE HANDBOOK FOR EMPLOYEES
FEBRUARY 20, 2017

DRUGS AND ALCOHOL

1. Policy Statement. The City of Creede prohibits the “Illicit Use of Drugs,” “Impairment by Alcohol” and “Use of Alcohol” as defined in this policy. An employee who violates this policy is subject to disciplinary action up to and including termination of employment.

2. Definitions. For purposes of this policy, the following definitions will apply.

(a) **CDL Employee**: A CDL Employee is an employee whose job description requires him or her to hold a commercial driver’s license under Colorado law.

(b) **Safety-Sensitive Employees**: Safety-sensitive employees are CDL employees and employees holding the following positions, which require the operation of heavy equipment and thus pose the potential for a direct threat to the public at large: [Add employee positions]

(c) **Illicit Use of Drugs**: The Illicit Use of Drugs means the on- the-job or off- the-job unauthorized use by an employee of a controlled substance, as defined by federal law or the misuse of prescription drugs, over-the-counter drugs or other substances known to affect a person’s ability to safely or efficiently perform job duties.

(d) **Marijuana or Marijuana Product**: Marijuana or Marijuana Product means any product that contains Tetrahydrocannabinol or THC.

(e) **Impaired by Alcohol**:

(i) CDL and Safety Sensitive employees are “Impaired by Alcohol” if alcohol testing under this policy indicates an alcohol concentration of 0.04 or more grams of alcohol per 210 liters of breath or per 100 milliliters of blood.

(ii) All other employees are “Impaired by Alcohol” if alcohol testing under this policy indicates an alcohol concentration of 0.05 or more grams of alcohol per 210 liters of breath or per 100 milliliters of blood.

(f) **Use of Alcohol**: The “Use of Alcohol” means an employee tested under this policy has an alcohol concentration of more than 0.02 grams of alcohol per 210 liters of breath or per 100 milliliters of blood, but is not “Impaired by Alcohol.”

3. Drug and Alcohol Testing.

(a) **Consent to Drug and Alcohol Testing**: Depending on the employment position, as a condition of employment, the City Manager may require employees to submit to breath alcohol and urine drug testing.

(b) **Confidentiality of Test Results**: Employee drug and alcohol test results will be kept confidential to the extent required by law. The Town Clerk is the custodian of records related to drug and alcohol tests.
(c) **Random and Biennial Drug and Alcohol Testing.** Certain classes of employees, as determined by job description requirements, are subject to periodic and random drug and alcohol testing as follows:

(i) **CDL Employees.** CDL employees are subject to random drug and alcohol testing and biennial drug and alcohol testing in conjunction with medical examinations required by law for a commercial driver's license.

(ii) **Safety-Sensitive Employees.** Safety-Sensitive employees are subject to random drug and alcohol testing, and to drug and alcohol testing in conjunction with any medical examination mandated by local, state or federal health and safety or certification requirements.

(iii) **Testing Consortium.** The City shall participate in a third-party consortium for purposes of random drug and alcohol testing. The consortium shall be selected by the City Manager. Intervals for random testing, the procedure for selecting personnel for random testing, random testing protocols, and other matters pertaining to random testing shall be determined by the consortium, but shall be not less than the following frequency:

A. Twenty-five percent (25%) of all Safety-Sensitive employees in the testing pool will be tested for alcohol each year; and

B. Fifty percent (50%) of all Safety-Sensitive employees in the testing pool will be tested for drugs each year.

C. The determination of the minimum percentage of Safety-Sensitive employees to be tested each year shall be rounded to the nearest whole number but shall include at least one Safety-Sensitive employee.

(d) **Reasonable Suspicion Testing.** An employee must submit to immediate drug and alcohol testing if reasonable suspicion exists to believe that the employee may be using drugs or alcohol in violation of this policy. Reasonable suspicion may be based on visual or other evidence that an employee is under the influence of, or using or possessing drugs or alcohol at the workplace. Indications of drug or alcohol use include, but are not limited to: slurred speech; lack of balance; excessive aggressiveness, docility or drowsiness; the detection or smell of drugs or alcohol; an employee's unusual demeanor, appearance or conduct; and irrational, threatening or violent behavior. Reasonable suspicion testing requires prior approval by the City Manager or the employee's supervisor. If reasonable suspicion exists to believe that the City Manager may be using drugs or alcohol in violation of this policy then the Mayor or Mayor Pro-Tem may approve reasonable suspicion testing. Refusal to take a test when required may result in disciplinary action, including but not limited to termination of employment.

(e) **Timing and Location of Drug and Alcohol Testing.** Drug and alcohol tests required under this Section should be performed as soon as possible after the determination that reasonable suspicion testing is appropriate.
If alcohol testing is not performed within two hours of a reasonable suspicion determination, the reason for the delay must be documented by the persons involved in the determination. The documentation will be kept by the Town Clerk. Contribution to the delay by the employee may result in disciplinary action, including but not limited to termination of employment.

Drug and alcohol testing of employees will be performed by a testing facility approved by the City Manager.

If testing is delayed more than eight hours after the determination of reasonable suspicion, drug testing, but not alcohol testing, will still be performed.

Post-Accident and Post-Incident Testing. An employee may be subject to immediate drug and alcohol testing after an on-the-job accident or incident involving a City motor vehicle, equipment, property or personnel, or involving the employee’s personal vehicle while on City business, under the circumstances described in this Section.

Unless unable to do so because of a serious injury, an employee involved in an on-the-job accident or incident must immediately report it to the City Manager.

The City Manager will determine whether an employee must submit to post-accident or post-incident drug and alcohol testing. If the accident or incident involves the City Manager, then the Mayor or Mayor Pro-Tem or Board of Trustees will determine whether City Manager must submit to post-accident or post-incident drug and alcohol testing. Post-accident and post-incident testing is permissible under the following circumstances:

A. There is a reasonable suspicion that the employee is under the influence of drugs or alcohol; or

B. The employee receives a citation (or there is other reasonable indication of the employee’s fault) and there is bodily injury or fatality; or

C. The employee receives a citation (or there is other reasonable indication of the employee’s fault) and there is property damage or direct incident costs reasonably ascertained to exceed $1,500.00; or

D. The employee suffers an on-the-job injury requiring a visit to a medical provider and there is other reasonable indication of the employee’s fault; or

E. The employee failed to follow operational or safety protocol, causing or potentially causing a serious operational incident.

An employee subject to drug and alcohol testing after an accident or incident will be escorted to an approved testing facility for immediate testing, and shall not use alcohol until the alcohol test is performed, or until eight hours after the accident or incident, whichever is first.
(iv) If seriously injured as a result of an accident or incident and unable to provide a sufficient breath or urine sample as required by this policy, the employee must authorize the release of medical records to determine if alcohol or drugs were detected. An employee who fails to immediately report any accident or an incident resulting in a serious injury, or who refuses to release medical records of drug and alcohol tests under these circumstances will be subject to disciplinary action up to and including termination.

(g) **Timing and Location of Drug and Alcohol Testing.** Drug and alcohol tests should be performed as soon as possible after the determination that reasonable suspicion or post-accident or post-incident testing is appropriate.

(i) If alcohol testing is not performed within two hours of a reasonable suspicion determination or after an on-the-job accident or incident, the reason for the delay must be documented by the persons involved in the determination. The documentation will be kept by the City of Creede City Manager. Contribution to the delay by the employee is cause for disciplinary action.

(ii) Drug and alcohol testing of employees will be performed by a testing facility approved by the City Manager of the City of Creede.

(iii) If testing is delayed more than eight hours after the determination of reasonable suspicion or an on-the-job accident or incident, drug testing, but not alcohol testing, will be performed.

(h) **Return to Work After Drug and Alcohol Testing.** An employee’s return to work after being required to submit to drug and alcohol testing is dependent on such factors as the employee’s job description, the results of testing, and the reason for the testing.

(i) **Return to Work After Reasonable Suspicion or Post-Accident Drug and Alcohol Testing.** An employee referred for drug and alcohol testing based on reasonable suspicion or an accident may not return to work until released to return to work by the employee’s supervisor. Time off work under this section will be paid.

(ii) **Return to Work After Random or Biennial Alcohol Testing.** An employee referred for random or biennial alcohol testing may return to work immediately after alcohol test results are obtained except under the following circumstances:

A. Any employee “Impaired by Alcohol” will be suspended with or without pay pending disciplinary action;

B. CDL and Safety Sensitive employees and any employee whose job description requires driving whose alcohol test results indicate the “Use of Alcohol,” will be required to take sick, vacation or personal leave until a breath alcohol test indicates an alcohol concentration below 0.02 grams of alcohol per 210 liters of breath or per 100 milliliters of blood; or

C. Substantial safety concerns are at stake.
(iii) **Return to Work Pending Results of Random or Biennial Testing.** An employee may return to work pending the City of Creede's receipt of negative test results.

4. **Disciplinary Action for Violation of Drug and Alcohol Policy.**

   (a) **Disciplinary Action.** Employees are subject to disciplinary action for any violation of this Drug and Alcohol policy. Disciplinary action may be based on the results of drug and alcohol tests conducted by the City or by any federal, state or local officials having independent authority to test the employee for drug and alcohol use. Disciplinary action may include termination of employment. An employee may be subject to disciplinary action, including but not limited to termination of employment, if any one of the following conditions is met:

   (i) A drug or alcohol test required by this policy determines the employee engaged in the “**Illicit Use of Drugs**” or was “**Impaired by Alcohol**” or used any Marijuana or Marijuana Product, and the employee holds a job description that requires a CDL or a driver's license or is identified as Safety-Sensitive employee;

   (ii) A drug or alcohol test required by this policy determines the employee engaged in the “**Illicit Use of Drugs**” or was “**Impaired**” while operating a City vehicle or equipment or the employee's personal vehicle on City business;

   (iii) When referred for drug and alcohol testing, the employee refuses to submit the required urine or breath specimen;

   (iv) The employee refuses to authorize the release of drug or alcohol testing results performed by a health care provider after an accident for which the employee may be at-fault, and testing is warranted under this policy or

   (v) The employee tampers with or attempts to tamper with a urine or breath specimen collected for testing.
TO: Clyde Dooley, Town Manager  
FROM: Eric J. Heil, Esq.  
RE: Adoption of 2015 International Building Code  
DATE: February 20, 2017  

SUMMARY: Attached is a draft of an Ordinance that allows a property owner to elect to use the 2015 International Building Code in lieu of the 2003 International Building Code. Creede can adopt a uniform law that applies to all property owners (like choosing 2003 or 2015 IBC) but cannot adopt an ordinance that provides a rule or exception for just one property owner, which is unconstitutional special legislation.

PROCESS: CRS 31-16-201 et seq. establishes a procedure for adopting codes by reference. Creede Municipal Code Sec. 1-1-40 states that secondary codes may be adopted by reference as provided by law. The process for adoption is as follows:

(1) Introduce Ordinance for first reading;
(2) Publish notice at least twice in the Mineral County Miner of a public hearing for second reading, the first publication must be at least 15 days prior to such public hearing;
(3) Conduct a Public Hearing on the date advertised;
(4) Consider adoption of the Ordinance on second and final reading after conducting the public hearing (which can be the same evening).

ADOPTION OF OTHER CODES ??: I was asked if Creede could allow property owners to voluntarily choose any code version later than the existing version of a building code. In theory, Creede could adopt the flexibility whereby a property owner could pick the version of the code he or she desired; however, the City Hall (i.e. City Clerk) and the Building Official must have on hand every version of every code that a property owner is allowed to use, and each version has to be referenced in the ordinance that adopts it by reference. There is usually a newer version every 3 years, so that is at least a one full wall of building codes. This may be tedious for the Building Official to have to use different versions.

Thank you, Eric
CITY OF CREEDE, COLORADO  
ORDINANCE NO 400 

AN ORDINANCE AMENDING CHAPTER 18 TO ALLOW PROPERTY OWNERS TO VOLUNTARILY ELECT TO USE THE 2015 INTERNATIONAL BUILDING CODE 

WHEREAS, pursuant to C.R.S. §31-15-103, §31-15-104, and §31-20-105 the Board of Trustees of the City of Creede ("City"), has the power to adopt building code regulations, to provide penalties for violations of adopted building codes, to elect to collect delinquent charges and assessments by certifying such amounts to the Mineral County treasurer, and make and publish ordinances necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of its inhabitants; and

WHEREAS, the Board of Trustees finds that permitting property owners to voluntarily elect to use the 2015 International Building Code instead of the 2003 International Building Code will provide flexibility in the use of property through the use of modern construction standards and will thereby promote the health, safety and general welfare of the Creede community; and

WHEREAS, the City of Creede may adopt codes by reference pursuant to Parts 1 and 2 of Article 16 of Title 31, Colorado Revised Statues and the Board of Trustees conducted a public hearing on April 4, 2017 after publishing notice of the public hearing twice in the Mineral County Miner, a newspaper of general circulation in the Creede community, such publications occurred on March 16, 2017 and March 23, 2017; and

WHEREAS, the City of Creede desires to adopt the 2015 International Building Code by reference with certain amendments as described in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE CITY OF CREEDE, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Board of Trustees.

Section 2. Sec. 18-2-15. 2015 IBC Adoption. Section 18-2-15. 2015 IB Adoption of the City of Creede Municipal Code is hereby enacted to read as follows:

Sec. 18-2-15 - Adoption.

There is hereby adopted the 2015 International Building Code published by the International Code Council, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, to have the same force and effect as if set forth herein in full except as amended herein; provided that the 2015 International Building Code shall only apply if the property owner voluntary requests and agrees to
the application of the 2015 International Building Code and shall then apply in lieu of the 2003 International Building Code.

Section 3. Codification Amendments. The codifier of the City’s Municipal Code, American Legal Publishing Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Creede Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 4. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Board of Trustees hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after publication in accordance with Sec. 1-3-70 Publication of ordinances in the Creede Municipal Code.

Section 6. Safety Clause. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the City of Creede, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Sec. 1-3-70 Publication of ordinances in the Creede Municipal Code.

[SIGNATURE PAGE FOLLOWS]
INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on March 7, 2017 and setting such public hearing for April 4, 2017 at the City Hall of the City of Creede, located at 2223 North Street, Creede, Colorado.

BY:      ATTEST:

____________________________  ____________________________
Jeffrey Larson, Mayor    Randi Snead, Town Clerk

ADOPTED ON SECOND AND FINAL READING on April 4 2017.

BY:      ATTEST:

____________________________  ____________________________
Jeffrey Larson, Mayor    Randi Snead, Town Clerk
City of Creede, Colorado
Request for Proposal
Attorney Services

The City of Creede is soliciting proposals for municipal Attorney services. The City of Creede is a municipal town of Colorado with a current population of about 420. The town is in various stages of growth and development. Currently the Board of Trustees meet for regular meetings on the first Tuesday of each month. Occasionally they ask the Town Attorney to be present at work sessions and/or Planning Commission meetings. The individual must be a licensed member in good standing of the Colorado bar, and will be appointed by the Board of Trustees. The City of Creede provides public works, water, wastewater, and drainage services as well as assorted parks and recreation programs.

The Town Attorney will be engaged by a professional services contract. This position carries no benefits, and the contractor is responsible for all applicable taxes and insurance. Compensation for this position is to be hourly for actual time spent in this service.

The Town Attorney reports directly to the Board of Trustees and shall be the legal advisor of the Board, mayor, town manager and any other officers of the town and shall represent the town in all legal proceedings.

Scope of Services for the Town Attorney includes but is not limited to:

- Provide legal services as needed by the town.
- Attend Regular Board of Trustee meetings held the 1st Tuesday of each month at 5:30 P.M.
- Attend special meetings of the Board of Trustees as required.
- Work with Town staff on all legal issues.
- Review, approve and help draft all contracts, ordinances, resolutions and other legal documents.
- Defend the town in litigation. If outside counsel is retained coordinate and help manage the town’s interests with this outside counsel.

Written proposals will be received in person or by mail at City of Creede, PO Box 457, Creede, CO 81130 or electronically to manager@creedetownhall.com until 4:00 P.M. March 30, 2017. The City of Creede reserves the right to accept or reject any and all proposals and to waive any informalities or irregularities in said proposals. The Request for Proposal does not bind the City to accept a proposal when, in the City’s sole discretion, the City determines not to do so.

Proposals must include:
1. Name of person who will be in charge of providing Town Attorney services. A resume of this person’s background and experience should emphasize the municipal law experience of that person and level of responsibility in this area.

2. Provide details regarding your existing workload and how you will fit this contract into your existing work priorities.

3. Provide a list of other municipal clients with whom you have worked in the past five years. Please submit three client references that we may contact.

4. The City reserves the right to obtain services from other attorneys when in its sole discretion believes it would be in the best interests of the town.

5. List of rates by attorney and supporting staff.

Selection Process

The Board of Trustees of the City of Creede will evaluate all proposals and choose those desired for interview. Interviews will be scheduled in April 2017 with appointment anticipated in May 2017.
CITY OF CREDEE

OHV ROUTE AND
REGULATIONS

OHV ROUTE IN BLUE
STAY ON ROUTE!
FOLLOW SIGNS
DO NOT EXCEED 15
MPH IN CITY LIMITS
VEHICLES MUST HAVE
PROOF OF INSURANCE
OPERATORS MUST
HAVE VALID DRIVER’S
LICENSES
OPERATORS MUST
FOLLOW MODEL
TRAFFIC CODE

VISIT WWW.CREEDETCITYHALL.COM OR
CALL 719-658-2276 FOR MORE INFORMATION
Manager’s Report

To: Mayor and Board of Trustees
Date: March 7, 2017
From: Clyde Dooley

Equipment Sell – Direction
Attached are the “Invitation for bids” we talked about at our work session. NOTE: I added one for the Caterpillar Blade and removed the 1973 dump truck we can use if necessary. If these invitations look acceptable and with your direction I’ll contact the paper tomorrow to have put in their 3/16 edition, post here, the court house, post office and Kentucky Belle and ask Randi to get it on Facebook. **Recommended Motion: I make a motion to put our Hobart Freezer, 1963 flatbed truck, 1965 Wayne Street sweeper, Caterpillar blade, and Glen Hill blade out to bid as presented.**

Gym Bleachers – Direction
As AnnKate discussed in her report, she would like to get rid of some of the bleachers on the east side of the gym. The fairgrounds has expressed interest in two to four and I recommend we let them have them or if the Trustees prefer, sell them for a nominal amount to the Mineral County Fairgrounds Association. With your approval, I’ll prepare a Bill of Sale to document the transaction.

Drug and Alcohol Policy – Direction
Attached is our attorney’s draft of the Drug and Alcohol Policy for your consideration and approval. I’ve also attached the memo he sent with the policy noting his recommendation to consideration for increasing the random testing frequency from once each year to once each 6 months.

Forward Edge Inc. – Direction
With your approval of the Drug and Alcohol Policy, I’ll complete the application with Forward Edge Inc. to have the four employees we have considered to be “safety sensitive” listed on the roster to be randomly tested. Per our attorney’s recommendation, would the Trustees like these four employees tested once each year or once each 6 months?

Flume Project - Direction
Per the Performance Measures in the Scope of Services of the DOLA grant agreement, we need to schedule a public hearing for regularly scheduled meeting on next month’s April 4th meeting. I’ll ask Randi to make this a separate topic on the agenda and based on our last meeting, I don’t anticipate much objection, but with Alandren from Bohannan Huston here, there may be a lot of questions.

**Recommended verbiage:** **Recommended Motion: I make a motion we schedule a Public Hearing at our next regularly scheduled meeting on April 4, 2017, to answer questions and hear comments about the Willow Creek Flume project.**
Flood Study & Letter of Map Revision – update

We sent the first invoice to Kevin at the Colorado Water Conservation Board to get this project opened up. We probably won’t see any more work on this until spring is in full swing.

Court House Improvement – update

I received an email from Janelle the middle of last month saying they would like to get started with the acquiesce process for their property and improvement plans. She is in the process of getting me the deed(s) to their property which I’ll attach to their application when I get it. Dan Russell is back and I’m assuming they still need to meet with him to define the property they like us to quit claim to them.

Rio Grande Street/Avenue Subdivision – update

Toby is making some final revisions on the final subdivision of Rio Grande Lane. I should also have the property descriptions we need to vacate I association with it by our next work session on the 21st.

One of the topics we also should talk about at the work session, is if we want to do the development of getting these parcels ready for sale. If I remember correctly, the last time the Trustees discussed it, they weren’t interested in selling.

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January Finances – FYI

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<tr>
<th>Budget</th>
<th>Budget</th>
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<tbody>
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<td>General Fund</td>
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<td>Conservation Trust Fund</td>
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<td>Water &amp; Sewer Fund</td>
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<tr>
<td>Net</td>
<td>(11,690)</td>
<td>(11,690)</td>
</tr>
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</table>

**City Sales Tax:** total $10,422 through the end of January. That’s up $1,960 for the same period last year and up $1,960 compared to last January.

**City Funds** total $2,804,698 through the end of January. That’s up $145,600 for the same period last year and down $6,395 from last month. [This is the tool I use to keep track of the funds we have in the bank. I use this spreadsheet to not only keep track of our short term financial stability, but also the long term fiscal sustainability. Fiscal sustainability strategies build the capability of a government to consistently meet its financial responsibilities, both in the short term by adjusting spending to revenues and revenues to spending, and in the long term by protecting future capital improvement plans and future generations of fiscal abilities.]

**Budget Fund Balances:** Budget fund balances are provided to us once a year after our audit. Please let me know if you’d like to see the spreadsheets &/or audits.
CITY OF CREEDE
Invitation for bids
Caterpillar Plow Blade

The City of Creede is interested in selling their 1996 Caterpillar grader plow blade. The plow blade can be inspected at the Town Hall, 2223 North Main Street in Creede.

The City will be accepting sealed bids above one thousand ($1,000.00) dollars thru Tuesday March 24, 2017 at 5:00 PM. The sealed bids should be in writing and can be dropped off at Town Hall, 2223 North Main Street or mailed to P.O. Box 457, Creede, CO 81130. Bids can also be emailed to clerk@creedetownhall.com.

The Board of Trustees will open the bids at their regularly scheduled meeting on April 4, 2017 and announce the winning offer.
CITY OF CREEDE  
Invitation for bids  
Flat Bed Truck

The City of Creede is interested in selling their 1963 Chevrolet, C60 flatbed dump truck. The truck can be inspected at the Town Hall, 2223 North Main Street in Creede.

The City will be accepting sealed bids above five hundred ($500.00) dollars thru Tuesday March 24, 2017 at 5:00 PM. The sealed bids should be in writing and can be dropped off at Town Hall, 2223 North Main Street or mailed to P.O. Box 457, Creede, CO 81130. Bids can also be emailed to clerk@creedetownhall.com.

The Board of Trustees will open the bids at their regularly scheduled meeting on April 4, 2017 and announce the winning offer.
CITY OF CREEDE
Invitation for bids
Hobart Freezer

The City of Creede is interested in selling their 1978 Hobart Freezer. The freezer is not in working condition. The freezer can be inspected at the Virginia Christensen Recreation Center located at 408 North La Garita Street in Creede.

The City will be accepting sealed bids above two hundred ($200.00) dollars thru Tuesday March 24, 2017 at 5:00 PM. The sealed bids should be in writing and can be dropped off at Town Hall, 2223 North Main Street or mailed to P.O. Box 457, Creede, CO 81130. Bids can also be emailed to clerk@cretownhall.com.

The Board of Trustees will open the bids at their regularly scheduled meeting on April 4, 2017 and announce the winning offer.
CITY OF CREEDE
Invitation for bids
Gled Hill Plow Blade

The City of Creede is interested in selling their 1990 Gled Hill plow blade. The plow blade can be inspected at the Town Hall, 2223 North Main Street in Creede.

The City will be accepting sealed bids above two ($200.00) dollars thru Tuesday March 24, 2017 at 5:00 PM. The sealed bids should be in writing and can be dropped off at Town Hall, 2223 North Main Street or mailed to P.O. Box 457, Creede, CO 81130. Bids can also be emailed to clerk@creedetownhall.com.

The Board of Trustees will open the bids at their regularly scheduled meeting on April 4, 2017 and announce the winning offer.
CITY OF CREDE
Invitation for bids
Street Sweeper

The City of Creede is interested in selling their 1965, Wayne Street Sweeper. The sweeper can be inspected at the Town Hall, 2223 North Main Street in Creede.

The City will be accepting sealed bids above two hundred ($200.00) dollars thru Tuesday March 24, 2017 at 5:00 PM. The sealed bids should be in writing and can be dropped off at Town Hall, 2223 North Main Street or mailed to P.O. Box 457, Creede, CO 81130. Bids can also be emailed to clerk@creedetownhall.com.

The Board of Trustees will open the bids at their regularly scheduled meeting on April 4, 2017 and announce the winning offer.