

TOWN OF ARRIBA
BOARD OF TRUSTEES PUBLIC HEARING
Monday, December 11, 2017
Arriba Town Hall, 711 Front Street, Arriba, CO 80804

Call to Order Mayor Alex Flores called the hearing to order at 7:00.

Board members in attendance included Bob Rush, Carolyn Steinsiek, and Leigh Anna Andersen. Tom Rush and Troy McCue arrived later during the hearing.

Public Audience included Jeff Fike, Marilyn Lightsey, Larry Kitzel, Jon Hart, Jay Spurling, and Beverly Langley.

Sales Tax Ordinance Clerk Hart said that if this passes it will be ordinance #142.

Jay Spurling said that on Section 1 it says "the purpose of this ordinance is to impose a sales tax on the sale of tangible personal property or the furnishing of services"- He said he didn't agree with the line "furnishing of services". He said taxing somebody's labor is a problem. Trustee Bob Rush said he might have a point because when he does stuff for Black Hills they can't tax labor- the only thing that is taxable is the materials, not the labor. Jay Spurling said you can't tax labor which is a service. Clerk Hart said she thought you aren't supposed to tax a service like water, or electricity. Trustee Bob Rush said you pay tax on gas and electricity. Clerk Hart asked if this is what that line meant.

Jon Hart said where he operates he pays the tax on the welding rod when he buys it and can charge a little bit extra in the hourly rate to reimburse for the tax he paid.

The Board agreed that if the person was selling the welding rod then it would fall under the tangible personal property (in the ordinance). Clerk Hart said the description of the sales tax ordinance says 'for taxable goods and services'

Jay Spurling said if somebody were to come to his shop and he had something already built that's completely different. He said something already sitting there for sale, not when somebody comes in and says they need something built, it's completely different it's not a retail item. He said the wording "furnishing of services" needs to come out.

Trustee Steinsiek said she agreed.

Clerk Hart pointed out that Section 3 says: "...tangible personal property at retail or furnish certain services as herein specified..."

Jay Spurling said it needs to be specified and written out.

Clerk Hart said the Board will have to come up with a resolution for business license and fees.

She said she wondered if at that time the Board would have to decide which services are going to be taxed.

Mayor Flores asked if that should be done before this ordinance. Clerk Hart said the Board could do that but if they want this tax question on the 2018 ballot it has to be adopted tonight.

Trustee Steinsiek said the Board should do the ordinance first and follow with a resolution later.

Mayor Flores asked how much sales tax revenue is the town expecting to get. Clerk Hart said not a lot, it would mostly be from online purchases. Mayor Flores asked how much would that be.

Clerk Hart said she didn't know and didn't think the Town could estimate off of what Flagler

gets. Trustee Steinsiek said she thought that at least having sales tax is a start.

The Board agreed that it would probably be a 2 percent sales tax since most of the surrounding towns have a 2 percent sales tax.

Clerk Hart said Section 7 in the sales tax ordinance concerns a vendor's fee, she said that section could be removed and there wouldn't be an additional vendors fee allowed. She explained it would be additional to what the state allows and it would have be 3.33 percent or less.

Jon Hart explained that a vendor's fee is when you collect sales tax for your business and you file paperwork on time and get money sent into the state on time, you get to keep a fee as a vendor. He said that his business kept about \$40 from all the sales tax paid last year.

The Board wondered if it was worth having in the ordinance.

Trustee Bob Rush asked what section 3 (c) meant. Clerk Hart said that the Town Board will have to come up with a resolution stating annual fees, and then as stated in this ordinance, any business will have to have a license with the Town to sell anything. Trustee Steinsiek said that what (c) means is that if Jody opens up a second location of Legacy Antiques then she has to have a separate business license for that location.

Jeff Fike asked what about Carolyn's business- it's located here but she works out of Limon. Mayor Flores asked what the business license would cost. He suggested \$10 since it has to be renewed every year. Trustee Steinsiek suggested \$25.

Trustee Bob Rush said that under 3 (c) you would have to be a business for that to apply.

Clerk Hart said she thought that any business would have to get a license. Trustee Steinsiek said that her business was not a retailer they provide a service. Trustee Bob Rush asked what constitutes a business versus a retailer.

Jeff Fike said in section 2 it lists 39-26-102 in the Colorado Revised Statutes and that statute lists everything – which number one is an agriculture and goes into that- but without specifying what exactly that's just lazy. Jay Spurling said a clearer definition of the 39-26-104 would be a better form to say these are the business that will be taxed, these are the ones that will be excluded- like agriculture, things like that. Jon Hart said anything that sales a service has to pay tax but things like agriculture already have their exemptions in place.

Clerk Hart said in Section 3 where it says "...or to furnish certain services as herein specified" she would think that goes back to the resolution where the Board will specify what business have to get a license. Jeff Fike said wouldn't you have to state all that in the ordinance. Clerk Hart said not this ordinance. Jeff Fike said this is just a draft then. Clerk Hart said no, this is just for defining the percentage of sales tax.

Jeff Fike said he thought when this was talked about before the Board was using the model of Flagler and the way that Doris does it- they have a sales tax also- they've got more business then Arriba does too, but if someone buys something from Walmart.com or Amazon or Target, whatever, then they just add it on to your bill like the state tax and then the department of revenue transmits that money directly into the town funds on a monthly basis and there's really not a whole lot to do as far as administration goes but this is obviously not that.

Clerk Hart said that the Town attorney came up with this ordinance and the Town just has to adopt this ordinance that states what the percentage is going to be and when it will take effect,

and then it goes to the ballot and after that the paperwork is filed with the state to set up everything, and then the Board comes up with a resolution declaring the licenses, who pays and who doesn't pay, how much the license fee will be. She said obviously everyone who sales something is going to be taxed but services will be defined in a resolution.

Trustee Bob Rush said to read Section 3 (e) which says: "No license shall be required for any person engaged exclusively in the business of selling commodities or providing services which are exempt from taxation under this ordinance".

Jeff Fike said most of this wasn't discussed at a public meeting so the attorney's opinion he didn't think was germane because town business is public policy is public business, his opinion, but adding something to it that's never been discussed he didn't think was a good idea.

Trustee Bob Rush said that was why the Board was having this meeting is to go through the ordinance. Trustee Steinsiek said there will be a resolution to cover licenses but this ordinance just has to be ready to get the question on the ballot.

Jeff Fike said the Board should have the licenses figured out first and zoning and land use for what businesses get a license for where. Jeff Fike asked where the sales tax money was going to go. Trustee Andersen said the Board still needed to discuss that. Mayor Flores said equipment, and roads. Trustee Steinsiek said equipment. Jay Spurling said drainage for the town. Trustee Steinsiek said if we don't have the equipment to deal with drainage...equipment was her opinion. Jon Hart said he didn't think the Town would get more than \$800 a year from sales tax. Mayor Flores said this is why every year he tells the Board they need to be raising water rates.

Marilyn Lightsey asked if the rates have been raised since the new system was put in.

Clerk Hart said the last time the rates were raised was 2014. The Town lowered the minimum gallons and raised the next tier a dollar, and raised the sewer fee a dollar.

Marilyn Lightsey asked if the rates had to be raised to pay for the water tower. Mayor Flores said the rates needed to be raised because operation costs continued to increase. He said that rate increase doesn't just go to the loan payment on the water system.

Clerk Hart said she was looking at the town of Flagler's and Seibert's sales tax ordinances and they are almost identical to the ordinance the lawyer put together for Arriba. She said both ordinances have the line "or the furnishings of services" in section 1, and Flagler's has the section regarding the vendor's fee and has it at 1/3 percent.

Jeff Fike asked if the ordinance the Board was looking at was the same one that was put on the Town's website or was the Board looking at something different that the public doesn't have.

Clerk Hart said it was the same ordinance that was put on the website and up around town and it was the same ordinance the Board was looking at.

Jeff Fike asked if the safety clause the town put in there that it's "...under the protection of the general police power of the town of Gilcrest that it is promulgated for the health safety and welfare of the public..." -did the attorney do that. Clerk Hart said yes, he did, and that is one of the things that needs to be changed in the ordinance.

Trustee Steinsiek said it looks like this ordinance is pretty much the same as the town of Flagler's.

Jeff Fike asked if anyone had looked at Doris' in Flagler sales tax ordinance. Trustee Steinsiek said yes Clerk Hart had gotten Flagler's and Seibert's.

Jon Hart said that services were not taxed in Flagler. Trustee Andersen said maybe that was something that was defined in the resolution the Board will write.

It was asked if this sales tax ordinance would be published.

Clerk Hart thought that the ordinance and ballot language had to be approved by the state before it can be published.

Jay Spurling asked if definitions of the sales tax law was going to be published like in a blue book. Clerk Hart said yes, that will be part of it and the 'blue book' and information about the sales tax ordinance will be circulated to every voter in town. She said she was working with the attorney on the timeline of when things are done. Jay Spurling asked if the attorney would be bringing this all to fruition shortly. Clerk Hart said she wasn't sure that was all part of the Tabor law and she wasn't sure when all that would be available. She said the first step was for the Board to adopt the ordinance. Trustee Bob Rush said in section 2 it says "...definitions shall be as defined in section 39-26-102 CRS". Trustee Bob Rush thought that that would be printed in the 'blue book'.

Jeff Fike said section 4 in Arriba's proposed sales tax ordinance was backwards and blows the internet right out of the water.

Trustee Steinsiek said no, it doesn't because it's where it's being delivered to. Clerk Hart said besides that, that language is in Flagler's sales tax ordinance and she knew for a fact that Flagler gets sales tax from online sales. Trustee Bob Rush said if it's delivered to Arriba it will be taxed for the town.

Trustee Steinsiek said the Board still needed to decide where the sales tax revenues will go. Trustee Andersen asked if the Board could just do general maintenance then it could go towards roads and equipment. Mayor Flores said maintenance doesn't really cover buying new equipment. He suggested equipment upgrade. Trustee Steinsiek suggested equipment upkeep and upgrade. Trustee Bob Rush suggested putting it towards Capital Investments since that should cover equipment upgrade and upkeep.

There was brief discussion on what types of equipment upgrades the town needs.

Clerk Hart said the other thing that needs to be decided is when the sales tax will go into effect- July 1, 2018 or January 1, 2019. Clerk Hart said waiting until January 1, 2019 will give the Board time to work on the resolution for business license and fees. The Board agreed the sales tax should be effective January 1, 2019.

The Board agreed that the sales tax revenues would go towards capital investments.

There was brief discussion on if the Town would ever sell the north lots to a developer. Mayor Flores said probably not and if the Town did want to sell it would need to be put out to bid, maybe even put on a ballot for resident to decide on.

Jay Spurling asked what tax percentage the Board is looking at passing. Mayor Flores said 2 percent. Jay Spurling asked what the Lincoln County sales tax rate is. Trustee McCue said Lincoln County's is 2 percent and the State's is 2.9 percent, so if Arriba's sales tax ordinance passes there would be a total of 6.9 percent sales tax.

Jeff Fike said the Flagler's sales tax ordinance has nothing about business licenses in it and suggested eliminating that altogether from Arriba's ordinance.

There was discussion on how there wouldn't be a reason for the town to charge a business license fee because most business will already be licensed with the state.

Arriba currently only has 3 business that would be charged sales tax.

Trustee Bob Rush agreed that the business license section could probably be taken out.

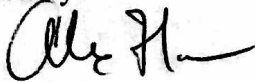
Trustee Steinsiek said that just because the business license part is in the sales tax ordinance doesn't mean the Town has to charge for a business license.

Trustee McCue said that in Limon businesses have to register with the town but don't have to pay a fee.

Mayor Flores adjourned the public hearing at 7:45pm.

Submitted by: Josie Hart, Arriba Town Clerk

Signed by:



Mayor Alex Flores

Approved by the Board on: 1/08/2018

Town of Arriba
Public Hearing
and
Board of Trustees Regular Meeting
Monday, December 11, 2017
7:00pm

Sign In Sheet

~~Jeff Fike~~
Jeff Spurlin

Larry Cook

Beverly Langley

MARILYN LIGHTSEY

JEFF FIKE