

DRAFT

**TOWN OF ARRIBA
BOARD OF TRUSTEES MEETING**

Monday, June 12, 2017

Arriba Town Hall, 711 Front Street, Arriba, CO 80804

Call to Order Mayor Flores called the meeting to order at 7:45. Roll call for the Arriba Town Board was read and those answering were Bob Rush, Tom Rush, Leigh Anna Andersen, and Carolyn Steinsiek. Troy McCue was absent. Jack Petty joined the meeting by phone.

Pledge of Allegiance was led by Leigh Anna Andersen.

Public Audience included: Ed E. and Jody Schifferns, Jeff Fike, Ron Petty, Jerry Ayers, Ted Grundmeier, Bob Schoonover, Marcella Flores.

Ed E. Schifferns asked if the Town was going to put a burn pile back up on the north lots. Mayor Flores said the Board hasn't really discussed it. The Board agreed the Town needs to have something, but that the pile needs to be burned more often.

Ted Grundmeier said that he has a suggestion from one of the Town's ex-council members to put a bench right outside of Town Hall.

Jody Schifferns said that she was very disappointed about what happened at the water protection grant meeting, the Town gets \$30 for every person that comes to the meeting to match the \$5,000 grant, only 8 people showed up. Jerry Ayers said residents of Leisure Pines don't receive letters or notices from the Town. He said the Town would have to mail it to each individual apartment. There is a bulletin board over at Leisure Pines if someone would post notices on it. Clerk Hart said she could start posting Town notices over at Leisure Pines.

Jody Schifferns said she has asked repeatedly what the chain of command was for Leisure Pines.

Ron Petty said that the community garden is looking good, there are flyers around town about helping out with it.

Jerry Ayers said his concern was Leisure Pines but Troy McCue is handling that and he's not here. He said that he had asked for a copy of his signed lease but it can't be found. He said that is a basic document that makes everything else binding and if it can't be retrieved then he questions his personal information and the safety of it. He said he was asking for immediate action, how long are we going to dance around and ask for financials and stuff when he can't even get a copy of his lease. Trustee Andersen said that there is a Leisure Pines meeting scheduled for Friday at 5:30. Mayor Flores asked if the Board wants to discuss Leisure Pines or would they rather go to

the Leisure Pines Board meeting and discuss everything there when the Leisure Pines employees will be present. The Board agreed to wait until the Leisure Pines Board meeting.

Jeff Fike asked if the Town Audit was started. Clerk Hart said she would cover that in her Clerk's report.

Jeff Fike asked if the Leisure Pines board meeting minutes would be published on the Town's website. Trustee Andersen said she was working on this.

Jeff Fike said that at the strategic planning meeting the Town forgot to add Leisure Pines as an asset.

Approval of Agenda Trustee Bob Rush moved to remove agenda item #9A 'Leisure Pines' and to approve the Agenda as amended. Trustee Andersen seconded and the motion passed unanimously.

Approval of Minutes Trustee Bob Rush moved to approve the minutes from the May 8 regular meeting. Trustee Andersen seconded and the motion passed unanimously.

Approval of Account Receivable and Payable

Trustee Andersen moved to approve the Receivables and Payables for May. Trustee Steinsiek seconded and the motion passed unanimously.

Approval of Bills

Trustee Andersen asked if the \$5,000 for the uncovered manholes also included cleaning out the sewer lines. Mayor Flores said no that was doing the risers instead of cleaning out the sewer lines. He explained that the first time that that the Town did this we had a problem because the manhole covers had never been dug up, and over time they got buried and some of them couldn't be found, the Town had them dug up and raised up and that ate up a lot of the Town's money. So this time, for this section all of the manhole covers were unburied, mapped, and raised, the sewer lines will be cleaned next year.

Trustee Bob Rush questioned why manhole covers that have been buried for 20 years needed to be dug up and raised. He was concerned with the manhole covers being raised high enough to catch a mower on them.

Mike Becker said that regarding the new chlorine regulator, he has had problems keeping the chlorine consistent, the regulators have been switched out but none of them were any good, so the Town had no choice but to get a new regulator for the chlorine. There was discussion on how the chlorine destroys the regulator so the Town will probably have to replace it every few years. Trustee Bob Rush said that the regulators can be sent in to be rebuilt to have on hand as a backup.

Trustee Tom Rush said that another option would be to change the chlorination system to a liquid injection.

Trustee Bob Rush said there's a set of injection kits that are coming that the Town hasn't been billed for yet.

Mayor Flores asked what had to be done to the aerator. Mike Becker said a whole new top mount motor was bought and the old float had a new shaft made, and repairs made to it.

Trustee Tom Rush moved to approve the June bills for payment. Trustee Bob Rush seconded and the motion passed unanimously.

TFAP Clerk Hart explained that at the strategic planning meeting James Russell had expressed that he would like to see that brought back to Arriba- especially for the senior citizens and the Leisure Pines residents. She said not much had been discussed about it at that meeting so she put it on the Agenda to see what the Board wanted to do about it. Trustee Andersen said she would like to see it brought back to Arriba too. Trustee Stensiek said that the Town would need at least 1 person that is committed all the time and they would make sure who was picking the food up and everything. Trustee Andersen said she had heard that Arriba didn't qualify for it anymore. Trustee Steinsiek said someone would need to talk to Becky Carter or Pat Vice about bringing TFAP back to Arriba.

Mayor Flores asked if there's anybody in town that wants to handle the TFAP. Trustee Steinsiek said that she had 3 people that had volunteered to do it. Clerk Hart said she would call Becky Carter or Pat Vice and try to get more information.

Trustee Steinsiek said that there are TFAP pick up locations in Hugo, Limon and Flagler but a lot of people in Arriba can't get to those places.

Town Cleanup and Define Ordinance #112 Mayor Flores asked where things were with the clean up. Clerk Hart said the letter had been sent certified with a return receipt but she wasn't sure the letter was ever delivered and signed for, it might still be sitting at the post office. The Board discussed having the sheriff's department deliver a letter to Michael Sparling. The Board agreed that a court date should be set and included in the letter. It was suggested to get pictures of the property.

Mike Becker said that a pickup is parked over the water meter on Michael Sparling's property. Jody Schiffers commented that a pickup was parked in the alley preventing the trash truck from getting through.

Trustee Bob Rush said regarding defining ordinance #112, it's been a long discussion for a lot of years as to what everybody considers an abandoned vehicle and abandoned machinery and so forth in that ordinance. He said his opinion is that this Board needs to sit down and put some definition to those terms, by an amendment or something instead of leaving it up to everybody's discretion. The Board agreed that this should be done at an action meeting.

There was discussion about putting a privacy fence up to screen properties from view and how this was defined in ordinance #112.

The Board set an action meeting for Tuesday, June 27th at 7:00 to define terms in ordinance #112.

Sewer Taps Clerk Hart said that at the last meeting there was discussion on if it was legal to charge the monthly sewer fee or disconnecting the sewer taps from the system. She said that she did get a response from Corey Hoffmann (Town Attorney) about it and she has that letter from him. Trustee Andersen read the letter out loud (the letter is attached to these minutes). Trustee Bob Rush said so it boils down to if the property is physically connected to the system the Town has the right to charge, if you don't want charged then the Town can physically disconnect it. The letter from the lawyer basically states that any property connected to the system should get charged, whether it's a vacant lot or not. It was explained that the way the Town handles the sewer charge now is if the monthly fee is no longer being paid the account continues to get billed until the account balance reaches \$2,000, which is the tap fee, or a lien is placed on the property in the amount owed. If the owner of the property decides to use the sewer again they would need to pay the tap fee. Trustee Bob Rush said but that's only been for properties that have had an account, what about the properties that don't have an account established with the Town. There was discussion on if vacant lots should be billed the monthly sewer charge or if they should be exempt. The Board agreed that if there was a tap on the property then there was availability to the system and the owner should pay the monthly sewer charge whether the lot is vacant or not. Used or not used, the sewer tap is there.

Mayor Flores said that according to the letter from the lawyer the Town has been handling the monthly sewer charge correctly.

Trustee Bob Rush asked if the customer could have the tap dug up and capped off taking away the availability and then no longer get charged the monthly sewer fee. It was discussed if a person did this would they pay a reconnect fee or a tap fee.

Jeff Fike said that he would catch his properties up and pay the past due sewer fees if the Town would waive the late charges. The Board agreed that this was fine.

Clerk Hart asked if she should continue handling the monthly sewer charges as she has been. The Board said yes and told her to see if there are any properties that are not currently being billed and need liens put on them.

Community Event Clerk Hart said there was discussion at the last meeting about having the brass band perform in the park on either July 29th or August 5th. Clerk Hart said she would talk to Larry Kitzel about those 2 dates.

Source Water Protection Grant Clerk Hart said the first stakeholder meeting had been held. The next meeting would be either the last week of July or the first week of August. The Board agreed to schedule the meeting for Tuesday, August 1 at 7:00pm.

This is for a matching grant of \$5,000, the Town will be credited \$30 for every person that attends these meetings. The Board agreed that Clerk Hart should send a letter about the meeting to Arriba residents.

Maintenance Report Mike Becker said he's been here a year now and he hasn't got his water or sewer license yet, and he's not ready to take the test. Trustee Andersen moved to extend the timeline to 6 months for Mike Becker to get his license. It will be revisited at the end of the 6 months. Trustee Stensiek seconded and the motion passed unanimously.

Mike Becker said he's been mowing, maintaining the streets, he got some road-o-mill from the State. He said he's got a lot of the park equipment painted, he's repaired the water line on Lincoln Street. He said he had to take the restriction plate in the chlorine injection system at the sewer plant out and clean it. He's been working with Par Parker to get the drinking water chlorine level back in line. He's had too much going on to start making the repairs to Town Hall.

Clerk Hart said that Connie Boettcher's insurance will not cover the damages to Town Hall, but the Town did get paid \$6,000 by CIRSA for the claim. There was discussion about having someone do the repairs to Town Hall as a part time employee of the Town. There was discussion about removing all the brick from the front section of Town Hall.

Mike Becker said he cleaned the drainage ditches south of Leisure Pines, he said he thought that it was draining well and saw no reason to cut a ditch across. There was discussion on filling the pot holes on Church Street with road-o-mill, the ground is so hard most everything washes away.

Mike Becker said he would start fogging for mosquitoes. Clerk Hart said that last year the schedule was Wednesday, Thursday and Friday from 7pm and 10pm, depending on the weather.

Clerks Report Clerk Hart said that the Auditor was out today and will be out tomorrow, he hopes to attend the regular Board meeting in July to discuss the Audit.

Clerk Hart gave the Board a list of the past due water accounts to review. There was discussion on if there is financial help for people that can't pay their water bill, but there isn't anything local. There was discussion on if you can legally turn water off to a home that has kids. Clerk Hart said that yes, you can turn water off to homes with kids.

Treasurers Report Everything looked good.

Trustees Report Trustee Bob Rush said he has been helping Mike Becker with the drinking water chlorine, there's two injector kits that he ordered that they'll have to put in, and this should help the chlorine situation. He said that with the regulator you don't have to buy a new one each time, you can send the regulators in to get rebuilt. He said the problem with the other 2 is that they were outdated and obsolete. He said if this new one gives the Town trouble and needs to be sent in to be rebuilt the Town would not have a way to chlorinate the drinking water. So the Town may need to budget for a backup regulator. He said about every 3-4 years the injectors will need to be rebuilt. He said the other option is switching to liquid chlorine for the drinking water chlorination. This would involve changing up a few things at the chlorination system. He said that Pat Parker said it would cost around \$3,000 to do this. But you would get away from the

chlorine gas which is a lot safer and cheaper. Trustee Bob Rush said the Town is looking at spending \$1500 on a backup regulator or \$3,000 to switch to using liquid chlorine.

Trustee Petty said that he heard that people didn't want to participate with the community garden since he wasn't there, he said this was a community project and if there's anything that anyone wants to add or take away from there its totally up to them, it is open to the community, for anyone to do what they want there. He said there are a couple of empty boxes that still needed planted. He said he would like to get a message board put up near the garden welcoming people to work in the garden and also include a grid of what is planted in the garden. He said there are flyers posted around town about the community garden.

LCEDC Report Trustee McCue had a written report of what he has been doing with LCEDC and general news concerning other towns (the report is attached to these minutes).

Mayors Report Mayor Flores had nothing to report.

Adjournment Trustee Steinsiek moved to adjourn the meeting, Trustee Tom Rush seconded and the motion carried unanimously. Mayor Flores adjourned the meeting at 9:11pm.

Submitted by: Josie Hart, Arriba Town Clerk

Signed by:

Mayor Alex Flores

Approved by the Board on:

Town of Arriba
Board of Trustees Regular Meeting
Monday, June 12, 2017
7:45pm

Sign In Sheet

Ed & Joy Schiffman

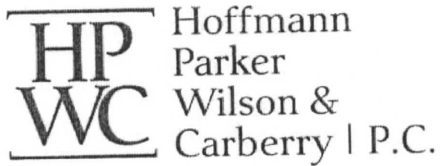
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Andrew J. Gomez
Daniel P. Harvey

TOWN OF ARRIBA
MEMORANDUM

TO: MAYOR AND BOARD OF TRUSTEES
JOSIE HART, TOWN CLERK

FROM: COREY Y. HOFFMANN, ESQ. 
HILARY M. GRAHAM

DATE: JUNE 6, 2017

RE: REVIEW OF TOWN SEWER SERVICE CHARGE

This memorandum reviews the Town's process for sewer billing, in particular, the practice of charging an annual wastewater service charge on an ongoing basis as long as a property's tap is physically connected to the Town's wastewater collection system. The annual wastewater service charge applies and is collected regardless of the property's water consumption or wastewater discharge. This practice was established in 2001 by Ordinance No. 128 to ensure the Town receives consistent revenue to cover monthly loan payments for the wastewater system update; completed and financed at that time. Our review of the Town's statutory authority, as interpreted and applied by courts through case law, indicates the annual wastewater service charge is valid and enforceable.

The Town's authority to operate sewer and water systems is set out in state law and includes, among other things, the following powers:

To prescribe, revise, and collect in advance or otherwise, from any consumer or any owner or occupant of any real property connected therewith or receiving service therefrom, rates, fees, tolls, and charges or any combination thereof for the services furnished by, or the direct or indirect connection with, or the use of, or any commodity from such water facilities or sewerage facilities or both, including, without limiting the generality of the foregoing, minimum charges,

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charges for the availability of service, tap fees, disconnection fees, reconnection fees, and reasonable penalties for any delinquencies....

Section 31-35-401(1)(f) (emphasis added). The plain language of this statutory provision authorizes the Town to charge for the connection itself to or the mere availability of the Town's water or sewer facilities. These charges are distinct from charges that are also authorized in exchange for actually receiving services from those facilities.

A court has reviewed and approved this type of "availability of service fee" as separate and distinct from actual service charges for water and sewer service, finding that C.R.S. § 31-35-401(1)(f), as cited above, grants "unrestricted power to assess availability of service fees." *Durango West Metropolitan Dist. No. 1 v. HKS Joint Venture Partnership*, 793 P.2d 661, 663 (Colo. App. 1990).

Moreover, the fee setting process, as formalized in Ordinance No. 128 is a legislative act that is subject only to limited judicial review to confirm that there exists a rational basis for the fee imposed. *Bennett Bear Creek Farm Water and Sanitation Dist. v. City and County of Denver By and Through Bd. of Water Com'rs*, 928 P.2d 1254, 1262 (Colo. 1996). Here, the Town has a rational basis in imposing the annual wastewater service charge, and it acted within its statutory authority in doing so.

As always, please let us know if you have any questions or need additional information.

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Lincoln County Commissioners

June 8, 2017

Lincoln County EDC Report

- I. **Arriba –**
 - A. Strategic Planning held May 23rd
 - B. Working with James on TFAP solutions for Arriba
 - C. Assisting with Leisure Pines staffing and financial adjustments
 - D. Backgrounding with DOLA on Arriba firehouse bay expansion.
- II. **Genoa-**
 - A. Made Genoa Alumni presentation on Lincoln County 5/28
 - B. Attended Genoa board meeting, hosted Strategic Planning May 17th
- III. **Hugo –**
 - A. 5 business retention visits (Main St. Mama's, Hugo Liquors, Osborne's Supermarket, Vimar, Inc., Designs by Dave)
 - B. Staffing Hugo Welcome Center Fridays (10 am-1 pm) and Mondays (1-4 pm)
 - C. Attended Senator Bennet's Joe Will Commemoration on 5/31
 - D. James attended HIP on 5/18
 - E. Will participate in LCHNH board and staff retreat 6/24
- IV. **Limon –**
 - A. 12 business retention visits (Eastern Colorado Bank, Poudre Bay Capital, Pronghorn/Ace Hardware, Gordon Insurance, Hoffman Drug/True Value, Spencer for Hire, Ben's Family Pharmacy, Peak Vista, Colorado East Community Action Agency, Noakes Auto, Limon Mem. Library)
 - B. 3 active SBDC Clients: #15-018 West Limon development , #15-017 Service-based business payroll tax assistance, #15-029-Local service business expansion
 - C. Now serving on Grand Plan committee for enacting CIRD outcomes from event – engaging CO Foundations, community meeting #2 to be held 6/15
 - D. Issued Request for Proposal (RFP) for Limon Housing Project in north-central Limon, August 15th deadline for proposals, fielding a few questions and inquiries for more information.
- V. **Karval –**
 - A. Backgrounding with DOLA (Greg Etl) on upcoming application for Karval firehouse
 - B. Providing assistance for ongoing greenhouse project-James working with Jeff Thornton, met at Hugo Welcome Center in June.
- VI. **Small Business Development Center (SBDC) Activities**
 - A. Researching OEDIT state initiative for SBDC expansion and impact, met with Lisa Hudson and Christine Hoffman on 5/26, and will be applying for initiative.
 - B. Invoiced 18 hours for May services.
- VII. **Americorps – VISTA Volunteer Program**
 - A. Submitted May summary report for James on 6/5.
 - B. James has begun populating Strategic Plan form and researching best-practices during process
 - C. Will soon begin Round 2 of Strategic Planning
- VIII. **Foreign Trade Zone #293**
 - A. Monitoring completion of small FTZ User at west end of Adams County, application nearing submission
 - B. Corresponding with other EDOs on state leads and relevance to the FTZ.
- IX. **Other: 3 Distinct development projects that will soon gain project numbers**