

**Minutes
Public / Regular Trustee Meeting
July 11th, 2023**

The Village of Capitan Board of Trustees met in public Hearing on Tuesday, July 11th, 2023 at the Village Hall in Capitan, New Mexico at 6:00 PM.

Mayor Lowrance Called the meeting to order at 6:01 PM

Roll Call: Trustee Shearer – Present, Trustee Kerns – Present, Trustee Fraley – Present, Trustee Hair – Present by zoom. Ron Lowrance – Mayor, Al Cavazos – Village Clerk, and Angela Autrey – Deputy Clerk were also present. A list of others in attendance is attached.

Item #1 on the Agenda: Approval of the Agenda.

Trustee Kerns made a motion to approve the Agenda. Trustee Hair Seconded the motion.

Discussion: There was no discussion of this item.

Roll Call: All were in favor, the motion carried.

Item #2 on the agenda: Public Input: Mayor Lowrance opened the floor for public input, citizen Marybeth Rose, who lives on 114 B 4th St. Mrs. Rose has lived in Capitan for about 11 years. She expressed her feelings of being unhappy with Smokey Bear Stampede (The dance, the concert, the horses ext). With the noise of the horses and their owners with their trailers in the street, until 1:30 in the morning, she isn't able to sleep. She asked the board, why East 4th street isn't closed off when all of the other streets are? She is planning to attend the next Fairground committee meeting as well. She would like to have the street closed off and also have officers have more patrol in that area to tell them that, "they can't do that". It's inside the village limits. She realizes the noise comes from the county, so she can't do anything about that. She feels that it's becoming more and more of a nuisance.

Mayor Lowrance - So it's quiet except for the 4th of July weekend?

Mrs. Rose – That's it. The county fair, those people are great, they're respectful.

Mayor Lowrance – I will talk to Randy and see about blocking off that street. And keeping them out of there for you. We will take a better look at all of it, because you're not the only one. It's the nature of the beast, but we will try to control it better. And if you have complaints then, I don't know if dispatch will send anyone out there or not, but they should.

Mrs. Rose – It's not the local people.

Mayor Lowrance – I understand, is ropers that stay up until about 2 or 3:00 in the morning. Thanks for bringing it to our attention. It is something we can work on.

Mrs. Rose – Thank you very much.

Mayor Lowrance – Anyone else?

Lorna Fike – I just wanted to announce that Hope Harbor has a date set for their ribbon cutting. The ribbon cutting is set for September 16th. I know it's a little bit early but we want to get ready. You are the first one's to hear of the news. I just wanted to update you on that.

Mayor Lowrance – I see you built a lot of fence.

Mrs. Fike – Yea, we are going to keep building fence. We are going to put houses in the back. We are going to put 2-bedroom 1 bath apartments.

Mayor Lowrance – 800, 900 sq. feet?

Mrs. Fike – Yes

Trustee Kerns – What time is that ribbon cutting?

Mrs. Fike – 11:00 is the tentative idea. We will put out a lot of press out when we get further down the road. The flooring is being delivered and put in, the walls are done, the cabinets are in. It's moving along.

Trustee Kerns – Do you have a feel of when the residential start coming?

Mrs. Fike – Don't know when, but when we have occupancy, tenants?

Mayor Lowrance – Certificate of occupancy

Mrs. Fike – Probably around early September.

Mayor Lowrance – Thank you. Anybody else?

Item #3 Mayor and Trustee Comments –

Mayor Lowrance – Trustee Hair, do you want to start?

Trustee Hair – I don't have anything at this time Mayor.

Trustee Fraley – I don't have anything.

Trustee Shearer – I would like to request that Greentree be put on the agenda list for the next meeting.

Mayor Lowrance – Greentree for?

Trustee Shearer – I received a call, a message from them again today, saying they are not being paid the environmental gross receipts tax, which covers the replacement poly carts and that they've got no response from the village with regards to the rate increase. So, I'm again asking that this be put on the agenda.

Mayor Lowrance – Did you get that Angela?

Deputy Clerk Autrey – Yes.

Mayor Lowrance – Trustee Kerns?

Trustee Kerns – No, I'm good thank you.

Item #4 Discussion/Action – Approval of the Minutes- May 25th Budget Workshop Meeting, and Regular Trustee Meeting June 13, 2023.

Trustee Hair made a motion to approve this item. Trustee Fraley Seconded the motion.

Discussion: There was no discussion of this item.

Roll Call for: All were in favor, the motion carried.

Item #5 Discussion/Action – Approval of May/June 2023 Bills Paid.

Trustee Fraley made a motion to approve. Trustee Hair Seconded the motion.

Discussion: No discussion of this item.

Roll Call: Trustee Fraley - Yes, Trustee Kerns - Yes, Trustee Hair - Yes. Trustee Shearer - No, based on my continuing objection to the payment to the Coppler Fund.

Item #6 Discussion/Action –Presentation – Shirley Pavlovic / Speaking for Hometown Association for the 2024 Smokey Bear Days.

Trustee Kerns made a motion to approve. Trustee Fraley Seconded the motion.

Discussion: Shirley Pavlovic introduced herself as the treasurer of Smokey Bears' Home Town Association. Which is an all-volunteer nonprofit organization formed in 2005. Their mission statement is to promote Smokey Bears fire prevention message and to raise money for the improvement and repairs at the State Park. With the fire prevention, they hold the Smokey Bear Days in Capitan. It brings people from inside and outside the village helping our local business, restaurants and merchants. Mrs. Pavlovic gave the Trustee's, committee and the attending public a printed presentation sheet / budget sheet. She asked to partner with the Village of Capitan as a co-sponsor with the ideas on her budget. She is asking for members and volunteers to help. Monetary support is needed. If grants or Lodgers Tax is available.

Trustee Shearer – LeAnne do you know how much is in that fund? Seems to me it's around \$6,000

Finance Officer LeAnne – Off the top of my head, I remember it's around \$19,000, but I don't have a specific figure.

Mrs. Pavlovic stated, she didn't know how early was to early to ask for lodger's tax. She is asking also to be able to put flyers in the water bills to let the local people know that this is going on. They would like the PD to put on a bicycle safety class. She has found a place to buy bicycle helmets for around \$6 each for the kids that come. They would like to have a corn-hole tournament. The Smokey Bear Hometown Association would like to make this a special event being that it's the 80th birthday celebration. Mrs. Pavlovic stated that there is a recent article in a New Mexico magazine with information about the park. There are 5 ads on the digital billboard by Chism about Smokey Bear Days. Would like the Village to partner with them to help make this happen.

Mayor Lowrance – I think if you come to the next lodgers tax meeting, I think they can help you out with radio and printed advertising and programs. I believe they are under the gun to be able to spend those funds anyway. Right LeAnne?

Finance Officer LeAnne – Yes

Mayor Lowrance – If you contact Angela, she will give you some information about that. We can put it on the web site too.

Mrs. Pavlovic- Angela, do you know when the next Lodgers Tax meeting is scheduled?

Trustee Kerns – Could you give us a review? You have been doing this for a while. Every year. You have been having trouble with help and finances. Tell us, because some may not know recent history.

Mrs. Pavlovic – We have Smokey Bear Days every year. The reason we had to stop having Smokey Bear Days every year was because, a lot of us just got too old to do it every year. There is basically 5 or 6 of us that are members of Smokey Bears Hometown Association. Well, 5 or 6 people to put on an event like that, is just really hard. But we have the support of one of the trustee's Mrs. Hair to get more people involved. If we can get more interest and volunteers, we can then maybe go back to having it every year. We are trying to get the word out there, that Capitan is a place to enjoy for all it has to offer. The Wild Land Fire Fighter Memorial, it's awesome that we have that here. There are people who think that needs to be in Santa Fe. It's awesome that we have that here.

Trustee Shearer – Smokey Bear Days may not draw a lot of tourist, but it's a great event for the town.

Trustee Hair – I volunteered to help create a web site, because that will allow them to go in and apply for grants that they may not be eligible for and we have a media presents on Facebook, but I think it can grow back to what it was in the past. I'm seeking to talk to the local schools, not just Capitan but in the surrounding area to see if we can promote Jr.'s and Sr.'s to do some community service. It might help with the physicality for such an event. And it will allow for them to earn letters of recommendation. I will hand write every recommendation for every student who participates as they go in a put their applications to major universities. These type of community events can make a big difference in their acceptance. I am taking this on as my responsibility as a Trustee to promote that because it promotes the Capitan we want to present.

Mrs. Pavlovic – It puts Capitan in a very good light. During this event we are getting Smokey Bears message out also. We don't just have fun and games, we also focus on getting the message out there. It's very important with all the wildfires in New Mexico.

Trustee Kerns – What's the date?

Mrs. Pavlovic – It's May 3rd and 4th of 2024

Another surprise is that, The National Smokey Bear Asociation is coming here for their convention in August?

Trustee Hair – It's in discussion, it hasn't been approved yet.

Mrs. Pavlovic – Thank you for letting me come and talk to you, I appreciate it.

Trustee Hair – So do we get this on the agenda for next month? Is that my understanding?

Mayor Lowrance – She goes to the Lodger’s Tax board and then comes back to us, then we will approve it.

Deputy Clerk Angela – The Lodgers Tax Board meeting is September 14th 4:30.

Item #7 Discussion/Action –Approve Recommendation of Application for Replat of Lot #3 Block 1 Mt. Vue Subdivision – Roberta Bullard

Trustee Fraley made a motion to Postpone Approval. Trustee Hair Seconded the motion.

Discussion: Postpone the approval until further notice. The ordinance needs to be reviewed or changed.

Mayor Lowrance – They didn’t make it past the Planning Board because they didn’t have enough acreage. She wanted a quarter acre sectioned off on the replat and she has to have a half acre. There were some questions in there so they dis approved it. Before we go forward and made a motion and seconded it I just wanted that affirmed.

Trustee Shearer – The documents we got in our packet said 2 acres.

Mayor Lowrance – It has to be a 2-acre trac and they can subdivide it but if they subdivide it has to have the minimum of a half-acre.

Trustee Shearer – That’s not what that thing that you sent us, said. It says, lots in any subdivision or replat that have access to village sewer and water shall have no less than a half-acre minimum. Any lot that does not have access to village sewer and water shall have a minimum of 2 acres.

So, I take it you are using the sewer to divide that. You’re saying that if it’s got access to sewer, it’s a half acre and if doesn’t have sewer it’s 2 acres.

Deputy Clerk Autrey – Lot’s in any subdivision or replat that have access to village sewer and water shall be no less than one half acre minimum.

Trustee Shearer – So if it has access to the sewer system, it’s no less than a half an acre? Because the water, I mean all of them have access to the water. So, the sewer system is the dividing line here. So, the sewer system only serves the core correct?

Deputy Clerk Autrey – Yes.

Trustee Shearer – Are there any half acre lots served by the sewer system?

Steve Osborn – I’m sure in the core because some of them are like a quarter acre, aren’t they?

Trustee Shearer – They are not even a quarter acre, they are a tenth of an acre. So, what I’m asking is I know that most of the lot’s in the core are less than a half an acre, a vast majority of them. Are there any that are a half an acre or more that you know of that are served by the sewer system?

Steve Osborn – Not really

Trustee Shearer – So, what this is really doing, this is one of the policies that have had a negative impact on the core. What this is doing is saying that if you are outside of the core you have to have a minimum of 2 acres. That’s actually larger than a lot of the plated lots. My house sits on 2/3 of an acre since the early 1900’s. A standard was created back in 2011 saying if you have a .10 of an acre lot in the core, you can develop that. You can put in a singlewide and develop that, but you can’t to it outside the core. We are creating development in the core, creating a disparity between property value’s just outside the core? I’m on West Creek and barely on the outside of the core, but I don’t have access to sewer. My neighbors and I, the 65-acre tract next to us years ago, sold us the pieces behind our houses. Which were .7 of an acre and 1.8 acres. Under this, that wouldn’t have been allowed. I think this is pushing development in the core and our sewer system isn’t equipped to push for rapid build out of the core. My question is, what are we really doing here? I drove over and looked at this property, it looks to me like the lines that are trying to be created are basically conformed to the buildings that are already there. I think the existing lot line runs right between two buildings. It looks to me like this property owner is trying to make the lines conform to the buildings that are already there. What we’ve had happen in the past when we’ve denied an application like this, is they turn around and make it commercial then they can put as many units on it as they want. So, we need to revisit this. It’s like this has been picked out of

the air. Like they pick they pick half acres and two acres without really looking at... What are the actual lot sizes? If you're out in the Pinon, Juniper area 2 acres is maybe, not a lot to maintain. If you are over by the north side of town, I have 2 acres of grass. It takes a riding lawn mower and lots of mowing. People may not be able to maintain 2 acres.

Trustee Fraley – This is in our ordinances? That's what we need to revisit?

Trustee Shearer – I think just had a problem where we found out one of our ordinances wasn't valid. This, I think suffers from the same problem. This is really zoning.

Trustee Hair – Zoning without defining it is zoning. This was brought up about 3 meetings ago. We really needed to focus on these ordinances that were not as clear cut. It's been a drive of mine to look at the one, animal control. I really think that we need to set aside a meeting. We've had the water rates that took precedence and they needed to. We need to look at getting things taken care of for the budget and making the audit push thru. We really need to look at these ordinances. I'd like to propose we look at a section of ordinances to see if we can make correction, modifications as deemed necessary. Call it what it is, and try not to impose another fraction into that. The ordinance states clearly, because these are very misleading sometimes in trying to understand some things.

Trustee Kerns – Mr. Mayor, I think these guys are on to something here. I would agree that we need to revisit that, I'm not sure of the answer. One thing I'd like to throw in there, is the suggested 2 acres and half acre, where did they come up with those? If we all remember that State say's, at $\frac{3}{4}$ of an acre you can have a standard, old fashioned type of septic system, and less than $\frac{3}{4}$ you are looking at an aerobics system.

Trustee Shearer – Do you think it's the septic tank requirements?

Trustee Kerns – Maybe, that should all be thrown into the mix while we are coming up with a reasonable number. I think we ought to look at it.

Mayor Lowrance – We got all the supers, that went through all the ordinances and made the changes and made it fit to what we need to do. When did we get those back?

Clerk Cavazos – We got those several months ago.

Trustee Shearer – The issues are we are kind of asking these guys to practice law.

Mayor Lowrance – No, we aren't asking them to practice law, it's what they see that they need to do. We still have got to get them to the lawyer make sure that they are done. If you would like to schedule to come in and you can read through them and see if you can come up with these scenarios that may not have been caught by the,

Trustee Shearer – Could you get us a set of them? Would that be too hard to do? A set of the marked-up ordinances? Because it's hard to make time to come down here to review all that stuff.

Trustee Hair – I think that's a great idea.

Mayor Lowrance – Okay, I'm just saying that, they knew what was wrong with the old ones. They went in, lined it out. Law enforcement, Streets, Water and here at the Village. It's something they cut out, make better. So, we got them put in order and then we are going to look through them again before we sent them to the lawyer to make sure everything is legal. Then we've got to send them to get codified, once they are codified we send them to New Mexico Municipal League then we bring it to yall to approve.

Trustee Shearer – That's not how that works, but

Trustee Kerns – I wonder if we should look at this, other than with all the others that need to be done, maybe we can consider looking at this one separately, so that it gets done and not diluted out with all the others that need to be done.

Mayor Lowrance – If you change one, you have to advertise it and then have a public meeting. What we are trying to do is get them all done at one time so that we have one public meeting, they can go through all the changes, go through all the updates. We can do them one at a time.

Trustee Shearer – As a service to the public we should do them one at a time. It's really a dis service to come in and re write the whole code and have one public meeting.

Mayor Lowrance – That's yall's decision. Yall tell me what you want and I'll get it done.

Trustee Shearer – Well I'm happy to just start reviewing the marked-up ordinances.

Mayor Lowrance – Which one do you want to start with.

Trustee Shearer – Well if you make them all available to us so that we can start looking at them.

Mayor Lowrance – Okay

Trustee Fraley – Is that something you can email out or is it going to be a hard copy?

Clerk Cavazos – We've already gone through and have made recommendations for you guys to review.

Mayor Lowrance – Do you want to make a motion to postpone this?

Trustee Hair – Until the ordinance changes are reviewed. I know it's not what Mrs. Bullard will want to hear but to be fair to the entire community, and to think about the things we have discussed on how to go in and develop outside of the core. Unfortunately, we need to delay until later.

Trustee Shearer – Have you driven over there and looked at this piece of property?

Trustee Hair – No I haven't.

Trustee Shearer – You should. once you see what is on the ground, it makes more sense.

Trustee Hair – That a fair system.

Trustee Shearer – This is the Old Blue Barn

Trustee Kerns – Maybe we should not lump the review into all of them. It does have a lot to do with growth and peoples rights. Maybe we ought to single this one out and see if we can move on it quicker.

Trustee Hair – That sounds fair.

Trustee Kerns – I don't know really the mechanics on that and how it has to happen.

Trustee Shearer – This one and the water ordinance are tied together because the water ordinance has similar provisions. One tap per lot. These two were adopted together. The land use and the water because they contain some overlapping provisions.

Trustee Hair – Is it feasible? Can we pull those out?

Mayor Lowrance – Yes.

Trustee Hair – Just to try to be fair to this an answer to this and do this as quickly as possible, not to delay it.

Clerk Cavazos – So you'd want land use and water?

Trustee Shearer – The whole water ordinance.

Mayor Lowrance – So do we have a motion to postpone?

Roll Call: All were in favor, the motion carried.

Item #8 Discussion/Action – Approve Recommendation of Application for Mobile/Manufactured Home at 427 3rd St., Lot 14 & 15, Capitan, NM. – Marla Devany

Trustee Kerns made a motion to approve. Trustee Hair Seconded the motion.

Discussion: No discussion on this application.

Roll call: All were in favor, the motion carried.

Item #9 Discussion/Action – Approve Recommendations of Applications for Mobile/Manufactured Home, 10'x12' Portable Building, and Fence at 119 West Third, Lots 23-25, Block 63, Capitan NM – Kelli Pruett

Trustee Shearer made a motion to approve. Trustee Fraley Seconded the motion.

Discussion: **Contingent**

Roll Call: All were in favor, the motion carried.

Item #10 Discussion/Action – Approve Recommendation of Application for New Construction of a Garage – 133 East Last Rd., Hideaway Hills, Lot #16 - Clifford Richardson

Trustee Kerns made a motion to approve. Trustee Fraley Seconded the motion.

Discussion: There was no discussion of this item.

Roll Call: All were in favor, the motion carried.

Item #11 Discussion/Action- Approve Recommendation of Application for Mobile/Manufactured Home at 121 Mountain Pass, Big Country, Capitan NM – Kandie Daves

Trustee Shearer made a motion to approve. Trustee Fraley Seconded the motion.

Discussion: There was no discussion of this item.

Roll Call: All were in favor, the motion carried.

Item #12 Discussion/Action- Approve Recommendation of Application for Mobile/Manufactured Home at 127 Long Rd., Hideaway Hills, Lot #20, Capitan NM – Travis Milhoan.

Trustee Shearer made a motion to approve. Trustee Kerns Seconded the motion.

Discussion: There was no discussion of this item.

Roll Call: All were in favor, the motion carried.

Item #13 Approve Recommendation of Application for Mobile/Manufactured Home at 113 Valley View Drive, Big Country, Lot #19, Capitan NM – Irene Causey

Trustee Shearer made a motion to approve. Trustee Hair Seconded the motion.

Discussion:

Roll Call: Trustee Shearer – Yes, Trustee Fraley – Yes, Trustee Hair – Yes, Trustee Kerns – No because he did not see the signatures to approve from the Planning Board. He didn't have enough information that it was approved properly.

Item #14 Discussion/Action- Approving Contract with State Approved CPA Firm: Carr, Riggs & Ingram for New Accounting firm.

Trustee Kerns made a motion to approve. Trustee Fraley Seconded the motion.

Discussion:

Trustee Fraley – Is this something we do on a regular basis?

Trustee Shearer – This is just the firm that is assisting us, this is not a new auditor.

Mayor Lowrance – No this is not a new auditor. It's because we don't have an accountant that takes care of the books and makes sure we are doing everything legal to help us prepare us for audits.

Trustee Fraley – This is like a consulting contract for the time being.

Trustee Kerns – This is renewing their contract?

Mayor Lowrance – No, we haven't had a CPA sense the lady out of Tatum, when she quit, so we are trying to hire somebody to help us with this.

Trustee Shearer – Hasn't Carr, Riggs worked for us a couple years ago.

Mayor Lowrance – Yes

Trustee Shearer – And then we have had a contract with them recently

Mayor Lowrance – Well we had to have them help to get the audit done.

Trustee Shearer – So this is the same kind of contract where they are assisting us with getting our financial statements prepared.

Mayor Lowrance – Yes

Trustee Shearer – And it's \$175/hr.?

Mayor Lowrance - Yes

Roll Call: All were in favor, the motion carried.

Item #15 Discussion/Action- Schedule Special Meeting to Approve Final FY 2022/23 4th Quarter and 2023/24 Budget.

Trustee Fraley made a motion to approve. Trustee Kerns Seconded the motion.

Discussion: July 27th @ 6:00 p.m.

Trustee Shearer – Did you say the auditors are coming in on the 19th?

Mayor Lowrance – The auditors will be here Monday. She’s working on them now.

Finance Officer LeAnne – I sent her information to her today, so she is working on it. Cindy from Carr, Rigs is going to be here on the 19th and 20th to start going over things with us.

Trustee Shearer – When is the exit interview scheduled?

Deputy Clerk Autrey – It’s not scheduled yet, she is still working on the audit.

Trustee Shearer – This is the 21 audit?

Deputy Clerk Autrey - Yes

Roll Call: All were in favor, the motion carried.

Item #16 Discussion/Action- Accepting Donation of the Smokey Bear Penny Machine to the Village of Capitan

Trustee Kerns made a motion to approve. Trustee Hair Seconded the motion.

Discussion:

Trustee Shearer – I thought you were going to let us pay you for that.

Deputy Clerk Autrey – I just want to donate it.

Trustee Shearer - \$5,000 is a lot for an employee to donate. I’m not okay with that, you should just let us pay you for it. It’s Capital. It’s a one-time expenditure, so it’s not coming out of operating.

Deputy Clerk Autrey – I just want to donate it.

Trustee Kerns – It’s incredible, right? Is it hard for you to believe, is that?

Trustee Shearer – No, I just think it’s an awful lot of money to donate on behalf of the Village, because she’s doing it for the good of the Village. Ya know, she went out and bought that thing because it was purchased by someone else.

Mayor Lowrance – Somebody was running the gift shop, she went and bought the machine. We no longer had her there so we couldn’t find out who actually owned it, but she had a receipt so she went down and gave her \$5,000. Now we have the penny machine and the stamps where you put the quarters in and a penny and it puts out Smokey The Bear.

Trustee Kerns – Who appraised it at \$5,000?

Mayor Lowrance – No, that was what was on the receipt.

Trustee Shearer – The stamps will have to be custom made.

Mayor Lowrance – We either approve the gift or, we?

Trustee Hair – I think it was something that it’s been graciously donated and we can be graciously excepting.

Roll Call: All were in favor, the motion carried.

Item #17 Discussion/Action- Approval of Memorandum of Understanding the Village of Capitan and Capitan Municipal School District for School Resource Officers.

Trustee Kerns made a motion to amend the motion. Trustee Shearer seconded the motion.

Trustee Shearer moved postpone pending further negotiations with the school. Trustee Hair seconded the motion.

Discussion:

Trustee Shearer – This is the same agreement we entered into last year, has there been any changes?

Mayor Lowrance – There’s going to be a paragraph entered into it.

Clerk Cavazos – We need to add a paragraph, because they are doing research. Taking numbers from last year, not taking into account that there may be unforeseeable changes. I think that we need to incorporate a clause in there, indicating that if there is any changes that is unforeseen say a regulation change or if the SRO quits, we have to assign another one. Structure frame is different, that would have and affect also on future.

Trustee Shearer – So we are not ready to approve it.

Mayor Lowrance – We talked to Vance. He is going to add it in. We can postpone until they ratify it. I think it's the 3rd Monday the 20?

Trustee Fraley – It's a week from tonight so it is next Monday.

Mayor Lowrance – So he should have it on there and then they can send it to us and we can approve it on our next agenda.

Clerk Cavazos – We talked to him a while about any possible changes coming that aren't foreseen. He said he understood.

Trustee Kerns – Would it be a good idea to have the attorney look at it?

Mayor Lowrance – We can.

Trustee Shearer – We are just not ready to approve it at this point

Mayor Lowrance – So we need to amend the motion to postpone?

Trustee Hair – Yes

Trustee Kerns

Roll Call: All were in favor, the motion carried.

Item #18 Discussion/Action – Approval of the Joint Powers Agreement Between Capitan Municipal School District and the Village of Capitan for the Capitan Baseball Field

Trustee Shearer motioned to approve. Trustee Fraley seconded the motion.

Discussion:

Trustee Shearer – Has this joint power agreement ever been approved? Has it been sent up for approval to the State?

Mayor Lowrance – We send it in every year.

Trustee Shearer – Because it has a bunch of stuff in there, it says the Village of Ruidoso is going to do stuff and they're not a party to the joint powers agreement.

Deputy Clerk Autrey – When we have tournaments, sometimes they help.

Mayor Lowrance – They give us the overflow. When they have their softball tournaments and stuff during the day they have 5 or 6 teams, they'd have to schedule them until 2 or 3 in the morning, instead they send them over here. That's when we go 55 us and 45 them. Other than that, it's 55 them and 45 us. It's the same deal but they acknowledge that we are going to have the tournaments that we have the JPA with them so we're responsible for trash collection, that's where Ruidoso steps in, mows, cleans up, empty's trash. They just never open up the snack bar.

Trustee Shearer – The only question I have is we have a bunch of obligations in this agreement for Ruidoso and they're not a party to it so they just do it willingly and we have a separate agreement with Ruidoso?

Mayor Lowrance – No. We don't have an agreement with Ruidoso.

Trustee Shearer – They are not in this, they're not part of this.

Mayor Lowrance – They haven't sent us any, softball or anything, they are having tournaments now. We had an agreement with the Parks and Rec. They would be in charge of everything, paying for water and mowing, all that. They haven't asked us to have overflow here this year.

Trustee Shearer – Okay

Roll Call: All were in favor, the motion carried.

Item #19 Discussion / Action – Approval of Water Purchase Agreement Between the Village of Capitán and Blattner Energy.

Trustee Fraley motioned to approve. Trustee Hair seconded the motion.

Discussion:

Trustee Fraley – I didn't quite understand what we are doing with this.

Mayor Lowrance – We are going to sell them water.

Trustee Shearer – It's 8 million gallons of water a month sale to the wind turbans, right?

Trustee Kerns – What rate, and what is that rate compared to what we've been doing with other people?

Steve Osborn – That's probably the biggest question. We've sent it to the attorneys as far as the language on all of the agreement. We've got a few more things I sent in the description and a little bit more on the quantities, but all of the other language has been approved. The primary thing, and it's probably going to be next year for the most part, they are looking at possibility of 8 million gallons a month. Eight months that are not tied to flow conditions September through April that they could purchase up to 8 million gallons a month. I have calculated out what we could handle and couldn't handle with our flow conditions and considered the highest usage we ever had with what they are wanting. I don't want to go over 4 million during those 4 months. The rate that is in the contract, they ask is \$15 per 1,000 gallons. Currently our rate to everybody in general is \$30 but because of this being so bulk. Our only other discounted rate is with the County, and we are doing that at \$10 / 1,000 gallons.

Trustee Kerns – I wish I had this to look at, so they are asking \$15 / 100 gallons?

Steve Osborn – Per 1,000 gallons.

Trustee Kerns – This is a commercial venture. We are selling out for the horse facilities over there in Fort Stanton. What are we selling to them at? Which it is not a commercial, it's more of a...

Steve Osborn – It is commercial as well. With our new rate structure, it goes up more when they use less water. It's somewhere between .09 cents and .22 cents per / 1,000 gallons depending on the time of the year. In July is their busiest time of the year, they use 100,000 gallons of water and it's only like .09 cents / 1,000 gallons, but in the winter when they are only using 5 or 10,000 gallons their rate is more like .22 cents. That has to do with the recent rate increase.

Trustee Kerns - .22 cents as opposed to \$15?

Mayor Lowrance – No,

Trustee Shearer – How long do you expect this to continue?

Steve Osborn – Next year is when they are planning on being the most use. You see in there that there is a letter that I had submitted to them. We are going to have add some extra cost to it.

Trustee Shearer – About 30,000?

Steve Osborn – Yes, and some of those cost kept increasing and increasing. They have been very good with working with us. Basically, what they are saying with negotiations would be that, if we'll approve the \$15 / 1,000 gallons, once we get everything finished on the contract, and everybody is happy with that, and approve the rate. They will write us a check on a signed contract for that amount, 30-32,000 what that is, to cover all the extra expenses we have in order to sell them the water. They have been very community minded. Next year is when they would expect to need the full amount of water. In talking to them, they have looked at the site around the wet lands and we have a good enough area to work with, it will be where we anticipate the solar panels would be going. They looked at that and said they would probably get started sooner rather than later. Right now, they are way out at Corona and they will be working this way. That's why I was saying that it would be next year they are planning on. I've checked all over the state. Roswell sells it for .10 cents / 1,000 gallons, Corona is at .12, Santa Fe is

at .10. I was borderline what to ask about just changing the rates to \$15 / 1,000 gallons for everybody. But we just had a rate increase, it doesn't make sense to go down.

Trustee Shearer – So, 8 million gallons. \$15 / 1,000 gallons. Would be about 120,000 / month. When you take out those 4 months, it's around a million 1.2 million a year.

Steve Osborn – 1.2, 1.3

Trustee Shearer – So that money can't just go into operating. The DFA says that when you get a onetime win fall like that, it needs to go into a special account, because what we don't want to do is roll that into operating and start hiring employees and the minute that's gone, we are back overspending our budget. I'm sure if we put that in a special account that could be used for capital projects, or to leverage. Keven said we lost a 2.4 million dollar grant so it would take us two years of selling water at that rate to recoup the grant that we lost. So we need to use that money for debt service to leverage millions. We need to leverage millions in contracts, grants, and capital outlay out of that funding.

Trustee Kerns – Thank you for making that point.

Steve Osborn – Like I've said. They have been very community minded. When I told them, we were going to put in solar panels in that area they said, well we can leave that area graveled. They have put a lot of them in California with community garden, they can do mulch if we want and then come in with topsoil. They will work with us. Long story short they said, tell us what you need. They have been very willing to work with us. I think it's a win win situation. We have the wording where it protects us with if something happens, there is no losses.

Trustee Shearer – It's a state engineer. Do we have to send it up for approval?

Steve Osborn – Not necessarily.

Trustee Shearer – It's within our certificate?

Steve Osborn – It's within our rights.

Trustee Shearer – Okay

Roll Call: All were in favor, the motion carried.

Item #20 Discussion / Action - The Possible Purchase of 103 E. Smokey Bear Blvd. the Old Washington Federal Bank.

Trustee Kerns made a motion to postpone. Trustee Fraley seconded the motion.

Discussion:

Mayor Lowrance – It's kind of worded wrong. What we want to do is, see what they are selling the building for, get in there, look at it and see, because it's not doing anything there. We had talked a long time ago about a police station, moving them. Even the fire department, but that is what we are looking for here, not the purchase. To pursue it.

Trustee Fraley – Was the 187,000 is that what is still the offer on the table?

Mayor Lowrance – That's the first thing they came up with but he says, it's like everything, it's open for discussion. We've referred back to them and said we couldn't do anything above what it appraised for. If it doesn't appraise for 187,000 then we can't. That's when he said well just tell us what you want.

Public woman – You keep saying "he". Who is "he"?

Mayor Lowrance – He is the director of all the buildings that Washington State Federal Owns.

Clerk Cavazos – His name is Patrick Stevens. He's in charge of all the State transactions, banking operations, he's our CLY.

Trustee Fraley – We need a motion for an appraisal, is that the next step?

Mayor Lowrance – No, we just want to further see what it is. We're not trying to buy it.

Trustee Shearer – My thought would be what we would do with it, if we bought it before me move forward with any negotiations to buy it. Look at what kind of re modeling it would need, what would you put over there, would you move city hall over there?

Mayor Lowrance – That’s why I put it on the agenda. I talked to the lady up there and said, if we could get in there and look at it, see what it’s like. I can’t remember how the offices were set up. There is one office in the back and then the safe, the counter where they had the dill and that one little studio area where they had a desk. I don’t know if that would be sufficient if we put an office where the safe was. It’s my understanding that they took the safe, I don’t know I thought they just took the door.

Trustee Kerns – Could we just re word this then? How would you word it?

Mayor Lowrance – I want permission to pursue, just a discussion.

Trustee Kerns – You didn’t want an action.

Mayor Lowrance – The agenda was already out. So I said look we’ll leave it on there and we will make a motion to postpone until further notice, then we can go ahead and contact her and find out when we can set up

Trustee Kerns – I make a motion to postpone, I feel like we need to find out some more about it.

Roll Call: Trustee Kerns – Yes, Trustee Fraley – Yes, Trustee Hair – Yes, Trustee Shearer – No, because I’m not wild about us looking at buying another building

Public Comments:

Kay Strickland – Is there not a possibility of another bank to coming in here?

Tiffany Minix – The community is dying to have another bank be here.

Mayor Lowrance – I’ve talked to Pioneer, I’ve talked to Wells Fargo, they’re not interested. It’s like it’s been black balled or something because if Washington Federal can’t keep it open, then why should we try?

Trustee Kerns – I’m thinking the trend in the industry is that everything is on line and just doesn’t pay.

Mayor Lowrance – I know I’ve talked to Wels Fargo and I’ve talked to Pioneer Bank, that’s where I bank and they were not interested.

Tiffany Minix – Citi Bank isn’t interested?

Mayor Lowrance – Wels Fargo moved out of Carrizozo and that’s a county seat.

Trustee Shearer – If we buy it then maybe we close the possibility of another bank going here.

Mayor Lowrance – Well no. I’m just saying we just want to take the opportunity to look at it since it’s just sitting there. And then in 10 years it’s falling down, stucco is falling off of it. I don’t know, we just want to take a look at it, and see, and we can get together at a special meeting and say you know

Trustee Hair – It doesn’t hurt to kick the tires.

Mayor Lowrance – I need a motion to move out of open session and into executive session in pursuant to the open meetings act.

Item #21 Discussion/Action – Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation, Section 10-15-1, Subparagraph (H)(7). Any action taken as a result of the closed session will be brought back into open session.

Trustee Hair made the motion to move out of the open session and into the executive session. Trustee Shearer seconded the motion.

Discussion: No Discussion

Roll Call: Trustee Shearer – Yes, Trustee Kerns – Yes, Trustee Fraley – Yes, Trustee Hair – Yes

Trustee Kerns made the motion to move into the executive session. Trustee Hair seconded the motion.

Roll Call: Trustee Shearer – Yes, Trustee Kerns – Yes, Trustee Fraley – Yes, Trustee Hair – Yes

Trustee Kerns motioned to move out of executive session and back into open session. Trustee Hair seconded the motion

Roll Call: Trustee Shearer – Yes, Trustee Kerns – Yes, Trustee Fraley – Yes, Trustee Hair – Yes

Discussion:

Trustee Kerns – Mr. Mayor I'd like to attest that during the executive session that we discussed a threatened and pending litigation and that is all.

Adjournment:

Trustee Fraley made a motion to adjourn. Trustee Hair Seconded the motion.

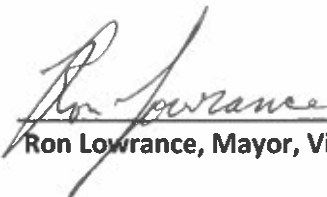
Roll Call: All were in favor, the motion carried.

Meeting adjourned at 7:26 PM.

Attest:



Al Cavazos, Village Clerk



Ron Lowrance, Mayor, Village of Capitan