

**Minutes
Special Trustee Meeting
July 27th, 2023**

The Village of Capitan Board of Trustees met in public hearing on Tuesday, July 27th, 2023 at the Village Hall in Capitan, New Mexico at 6:00 PM.

Mayor Lowrance Called the meeting to order at 6:03 PM

Roll Call: Trustee Shearer – Present, Trustee Kerns – Present, Trustee Fraley – Present, Trustee Hair – Present. Ron Lowrance – Mayor, Al Cavazos – Village Clerk, and Angela Autrey – Deputy Clerk were also present.

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

Trustee Shearer made a motion to approve the Agenda. Trustee Fraley 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:

No Discussion

Item #3 Mayor and Trustee Comments:

Trustee Kimble – Mr. Mayor I don't have any comments this time.

Trustee Shearer – I'm going to reserve comments until the August 8th meeting.

Trustee Fraley – I have no comments.

Trustee Hair – I have no comments.

Item #4 Discussion/Action – Approval of the Minutes – Regular Trustee Meeting – July 11, 2023.

Trustee Kerns made a motion to approve this item. Trustee Hair 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 Resolution No. 2023-26 – 2023 Final Quarter Financial Report Year Ending June 30, 2023.

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

Discussion:

Trustee Shearer – I have a question. In the current year budget that ended June 30th, the Municipal Clerks' salary was budgeted, this is excluding benefits, was budgeted at 58,000 and it came in at 65,000 at the end of the year. It's the only one that I see that's running 111 to 120% over budget. Can you help me understand what's going on?

Clerk Cavazos – I didn't understand your question.

Trustee Shearer – The budget for your job, was budgeted at 58,406 and it finished the year at 65,241. Which is a difference of around \$600 a month.

Financial Officer Brasher – Overtime.

Trustee Shearer – It's overtime?

Financial Officer Brasher – Yes

Trustee Shearer – I don't see any overtime in any of the other positions. Was it for the Clerk or was it for someone else and it was put into that line item?

Financial Officer Brasher – No, there was overtime for both Al, myself, Angela, and there was other overtime in other departments also.

Trustee Shearer – Okay, I see 104, 105 in finance, but I'm curious if that's overtime for all positions, or if that's just the Village Clerk?

Financial Officer Brasher – The particular one that you're looking at?

Trustee Shearer – Yea, I'm looking at page 22 of our packet. It's the FY 22/23. It says salaries for the Municipal Clerk.

Trustee Kerns – For Municipal Clerk?

Trustee Shearer – Yea

Trustee Kerns – Salaries full time, Yep.

Financial Officer Brasher – Yes, that would be just for Al.

Trustee Shearer – In this budget it looks like we started with reserve of about 1.9 million, and we are finishing the year at 1.7. So, we spent 48,000 on play ground equipment, the remaining 150,000 is operational. Is that correct? I couldn't find any other capital in there.

Financial Officer Brasher – Yes, we did spend extra money for the doors and the window. That was extra money spent out of the general fund.

Trustee Shearer – How much was that? Thirty thousand?

Keven Kennedy – No, it was \$18,000.

Trustee Shearer – 18 so, 48 and 18?

Financial Officer Brasher – No, it was a little more than that.

Trustee Shearer – It looks like our operating expenditures are continuing to exceed our operating revenue.

Financial Officer Brasher – In this particular time, we did spend a little more on playground equipment. We didn't just buy those two that were the 48,000, we also spent for teeter totters and a little merry-go-round so, we did spend extra on that also.

Trustee Shearer – I only saw one bar for 48,000.

Financial Officer Brasher – Correct, that was what we had put into the Parks and Rec. But the other things we did take it out of the general fund.

Trustee Shearer – Okay, so how much of 150,000 is capital expenditures, ball park?

Financial Officer – Is that going to include what we've done here?

Trustee Shearer – Don't include onetime expenditures. If you take out the one time for this, if you take out the money for the playground. How much are we going over budget? I'm trying to get an idea as to how much was capital.

Financial Officer Brasher – I understand, and I have not sat down and actually analyzed it, but I can come up with a figure for you.

Trustee Shearer – Okay, because that is something that the auditors are going to look at.

Financial Officer Brasher – Right

Trustee Shearer – It's usually a finding.

Financial Officer Brasher – I've been working very close with Cindy and I also work closely with Pam the week before. There's a lot of stuff we are straightening out and a lot of stuff both Cindy and Pam have brought my attention to. To be more aware of certain things, and I started implementing them in the next budget because this one's already over with.

Trustee Shearer – Right, I'm just trying to understand where we actually finished the year. We haven't gotten to that item yet, but does the projected budget include all employees?

Financial Officer Brasher – For the 23/24?

Trustee Shearer – Uh huh

Financial Officer Brasher – Yes

Trustee Shearer – Okay. Alright that's my questions.

Mayor Lowrance – Further discussion?

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

Item #6 Discussion/Action – Approval of Resolution No. 2023-27- FY 2023/24 Final Budget.

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

Discussion:

Trustee Fraley – This is what we have been going over, right? There haven't been any major changes since the last time we reviewed it?

Trustee Shearer – There haven't been any changes.

Finance Officer Brasher – The only changes would be the unrestricted cash.

Trustee Shearer – The beginning cash balances?

Finance Officer Brasher – Yes, that is the only thing that is changed.

Mayor Lowrance – Further discussion?

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

Item #7 Discussion/Action – How to proceed on the resolution No. 72023-25 Menace to the Public Comfort, Health, and Peace or Safety and Requiring Removal of Ruins, Rubidge and Wreckage of Debris – 204 West 4th Street – Chief Spear.

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

Discussion:

Trustee Fraley – What are we approving?

Trustee Shearer – Wouldn't you like to hear a discussion before you make a motion?

Trustee Fraley – I don't know what we are approving.

Trustee Shearer – That's actually how Roberts rules of orders work. It's on the agenda, the presentation is made, and then the mayor should call for a motion. So, if we could do that, that would really be great.

Mayor Lowrance – Go ahead Randy.

Chief Spear – It's the resolution that you all approved two months ago, next week on 204.

Trustee Fraley – Wow, I remember that.

Chief Spear – I was gone for the last Council meeting, at training. I'm coming to see where we want to go with this resolution.

Trustee Fraley – We passed it a couple months ago.

Trustee Shearer – But it's invalid.

Trustee Fraley – Oh.

Chief Spear – What I'm asking is, do you want to go any further than just the resolution because we are at a dead end of the resolution, we are either going to take action on it, or let it die again. But before you make that decision... I think you got to see the pictures from the last time?

Mayor Lowrance – Yes

Chief Spear – Okay, here is the new pictures. The only problem I've got is..... He's cleaned the property up. I mean looking at the old pictures vs. the new pictures, it's great, except the alley. His fence is starting to fall down. I can cite him into court. He still owes the court money.

Trustee Kerns – Because of the fence? Are you being specific about that?

Chief Spear – I think in those pictures you will see it. He's got so much trash back there and he don't know how to build a fence.

Trustee Kerns – I'm not seeing it from the street. That much trash there.

Chief Spear – It's pushed, it's in the alley, is where it's pushed to. He put the fence up and is keeping it up by the side street where you can't see it, but the one in the alley, it's falling down. You can see all the old crap that he's got piled out there. He'll rake the yard and instead of putting it in a bag, or a

dumpster, and taking it somewhere, he take's it back there and throws it into the back. It's piled up against the fence and using short nails don't work. It's just pushing that fence out. I've yelled at him, I don't know how many times about it. He's come to municipal court, I don't know how many times about it. He still owes the court money, so now I don't know where to go.

Trustee Shearer – This resolution, says, that he having not been connected to village water or other services since November 1 of 2022. It is my understanding that is not a valid complaint.

Mayor Lowrance – Right

Trustee Shearer – So we are advised by the court.

Chief Spear – That has not yet been decided, by the judge. We have a hearing on it Tuesday, I believe.

Trustee Shearer – So we shouldn't we wait until then? Because, if we take action and it's invalid, then we are creating a liability to the Village.

Chief Spear – It's not only to deal with the water, it's to deal with the junk.

Trustee Shearer – But we would need a new resolution because this resolution is about the water.

Trustee Fraley – So we need to motion to postpone until we get a ruling there.

Trustee Hair – Correct

Trustee Fraley – Okay. Alright I make a motion that we postpone this resolution until the court's ruling, until the next meeting.

Trustee Hair – I second.

Trustee Kerns – Let's talk about, a little bit if we could. Where does that put the police chief, what kind of position does that put him into at this point. Because it's more than just a water issue right now, right? We have the water issue, also we have a fence that's not made of.... Aren't we supposed to use standard materials? Are we still letting people put up pallets for fences?

Mayor Lowrance – No

Chief Spear – No, but this was constructed before all of this went into effect.

Trustee Kerns – It's just metal leaned up against post.

Chief Spear – He's got it allegedly nailed into the post. There's a bunch of nails there when ever I drove down the alley.

Trustee Kerns – You're not citing him for the fence, it's the trash.

Chief Spear – That's what I'm going to have to start citing him for, is the fence.

Trustee Kerns – Okay, and your concern is if we enforce this resolution, It's got the verbiage in there about water and now we are unsure about the water.

Chief Spear – Correct

Trustee Kerns – How are you going to deal with that?

Chief Spear – It's going to depend on the court's decision, I think it's Tuesday. Where we go from there.

Trustee Kerns – And it's that court, specifically about another into town. Correct?

Chief Spear – Yes, it's over at another place in town, but it's going to encompass my water problem. But, I've still got this and I can get Angela to redo this and we can address just the junk. If he get's the fence fixed, then I can't say anything about it because you can't see anything from the street. Or, instead of the resolution, I can cite him into the court again, but court can not even get him to do community service. He allegedly has a full-time/part-time job that, I don't know how long that is going to last, up at the Spencer Theater.

Trustee Kerns – He has made payment's in the past. He was doing pretty good on his court cost.

Chief Spear – Yea, okay if you want to believe that.

Trustee Kerns – No, wait a minute.

Chief Spear – The judge has had to get on him many of times.

Trustee Kerns – So he has not been doing well.

Chief Spear – No

Trustee Kerns – Okay

Trustee Shearer – Are the court cost related to the water citation?

Judge Davalos – We did court fines and then the fees for the court cost.

Trustee Shearer – So if the court over rules that, don't all those go away?

Judge Davalos – Are you talking about district court Randy?

Chief Spear – Yea

Deputy Clerk – There has only been two cases that we have with him that is due to the water. The rest of it is other stuff.

Chief Spear – This usually goes out in the driveway where the Avalanche is and there has been anywhere between 3 vehicles about 15, junk cars that he's been sitting or working on. The judge ordered them to get rid of them, they got rid of some of them. They put some of them behind the fence, that he was supposed to have gotten rid of. The travel trailer sitting there, does not even belong to him, it belongs to another guy here in town, that refuses to go get it.

Trustee Fraley – So, basically after the court rules we can create a new resolution that would address the appropriate topics. We can see that on the 8th.

Chief Spear – He's playing a cat and mouse game. Whenever I served him the resolution, I told him, he needed to come in and talk to Al or Angela, and he had ten days. He never showed up. So, I caught him again. I said, "Look Earl. The games are over. Your ten days are up. You need to go in this afternoon." He never showed up. He's been told 3 times to come in to talk to them, to give them a plan. He refuses. He'll come and see the judge, all happy and all. But he will not come in to City Hall and talk to Al or Angela.

Trustee Kerns – Do you find him using the "What About" excuse?

Chief Spear – No, all he will say is, "I'll get it done." And I have to tell him, "Earl, I need it done, in this year and in the next week or two." He just says, Okay.

Trustee Kerns – He's suggesting we take things a little slower and do it right.

Trustee Fraley – If it is Tuesday, that's the 1st, so a week from that will be our next meeting. Hopefully we should be able to put that in our next meetings agenda.

Chief Spear – Let me look real quick. Yes, it's the 1st.

Trustee Kerns – That's all I've got.

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

Adjournment:

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

Discussion: No discussion

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

Meeting adjourned at 6:22 PM.

Attest:


Al Cavazos, Village Clerk


Ron Lowrance, Mayor, Village of Capitán

