

**Minutes**  
**2/14/2023 Rescheduled Regular Meeting**  
**2/21/2023**

The Village of Capitan Board of Trustees met in a Regular Meeting on Tuesday February 21, 2023, that was rescheduled from February 14, 2023, due to lack of quorum. 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:** Mayor Lowrance – Present, Trustee Shearer – Present, Trustee Fraley – Present, Trustee Hair – Present, Trustee Kearns – Absent, Al Cavazos-Village Clerk, Angela Autrey-Deputy Clerk, LeAnne Brasher-Finance Officer, Randy Spear-Police Chief, Steve Osborn-Water Dept. Supervisor, Kevin Kennedy-Project Manager, Zach Cook-Village Attorney were also present. A list of others in attendance is attached.

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

Trustee Shearer made a motion to move item #18 to #5 and #5 to #18 and to pull a,b, & c off of the consent agenda for discussion. Trustee Fraley seconded the motion.

**Discussion:** There was no discussion of this item.

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

A motion was then made by Trustee Fraley to Approve the Agenda. Trustee Hair seconded the motion.

**Discussion:** There was no discussion on this motion.

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

**Item #2 on the Agenda: Public Input. (2 Minute Limit per Speaker)**

There was no public comment

**Item #3 on the Agenda: Mayor and Trustee Comments.**

Trustee Hair had no comments.

Trustee Fraley asked about the information that they received so late in the day was related to the rate study. Al informed him that Mr. Pennock would be on zoom to answer any questions.

Trustee Shearer stated that she was unhappy with the packets not being complete. She feels very uninformed about what was needing to be discussed. She stated that the purpose of the Agenda is notice to the Public. She had asked for more clarification on a subject and it took her three tries to get information that she feels should have been in the packet in the first place. Al asked that if anyone had questions or was wrong, that they would please include him on any correspondence, so that He can make sure that they were followed up on. Trustee Shearer was also no happy that she was being told how & when she should be having to look at something and have a decision made on something, when she didn't even receive the information until 30 min before the meeting and hadn't had a chance to really even study the information. The Chair then recognized Tiffany Minnix. She stated that she would appreciate that when the Board was speaking about something that the crowd might not be clear on that they would be very clear on what they are discussing, rather than just stating what is on the agenda item. The Mayor reassured her that anytime someone in the audience has a question that if they just raise their hand, He will acknowledge them, in order to answer any question. Trustee Shearer stated that we should have explanations as to why we have something suddenly on the agenda.

Mayor Lowrance had no comments.

**Item #4 on the Agenda: Approval of the minutes-Regular Meeting-January 10, 2023.**

Trustee Fraley motion to Approve. Trustee Hair seconded the motion.

**Discussion:** There was no discussion of this item

**Roll Call:** All were in Favor, this motion carried.

**Item #18 in place of 5 of the Agenda: Discussion/Action- Approve a Special Election to Allow Interlocal Transfers of Liquor License(s) into the Village of Capitan.**

The Mayor gave the Floor to Attorney Mark Rhodes. Mr. Rhodes explained that it isn't complicated. It isn't just Smokey's and that it would allow any business to be able to ask for a liquor license in The Village of Capitan if this

**continued Item # 18 for 5 of the Agenda: Discussion/Action- Approve a Special Election to Allow Interlocal Transfers of Liquor License(s) into the Village of Capitan.**

The Chair recognized Al. Al Stated that the Contractor, Tom Buyers, with whom we have been working with wanted to speak with Mr. Durham about what He actually got done. That conversation just took place this past week. Now that Tom has all of the knowledge of what He need to look at, and there is quit a bit. He is trying to work up a bid on what it will take to finish what was started. This should be coming next week. After we receive this bid, we should have an idea of how we will need to proceed.

**Item #8 on the Agenda: Update on Research on Capitan Mountain Ranch Land.**

The Chair Recognized Al. Al Stated that we have had a meeting with some people in the community and that we are trying to get additional information together. Al will be putting together a business plan together for the Board to look at that will show all of the possibilities of what we can do with the property. What kind of income that could be generated. What expenditures we would have to make. Trustee Shearer does not understand why this has shot up to the top of our ICIP list when we can't even accomplish any of our other projects. She is fully against even looking into this. Al stated that it is not on our ICIP List because we are not asking fir funding for this. He will show these things in the business plan.

Item #9 on the Agenda: Approval of Bills Paid for January 20203

**Trustee Fraley made a motion to Approve this Item. Trustee Hair seconded the motion**

Discussion: There was no discussion of this item.

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

**Item #10 on the Agenda: Consent Agenda.**

Trustee Fraley made a motion to discuss a,b,& c on the consent agenda. Trustee Hair seconded the motion  
Discussion: The Chair recognized Trustee Shearer. Trustee Shearer asked about the New Fund called Police Recruitment Fund. She wanted to know what this was and if it had to do with Brett's position? LeAnne Stated that this has to do with a grant that we got for 75,000.00 to hire a new Police Officer. Phillip Wall. She had to break it down by salary, taxes and insurances. Trustee Shearer then asked on the 2<sup>nd</sup> quarter of the financial report for the SBE Museum had 31,000. In the 1<sup>st</sup> quarter, but only had 17,000. In the 2<sup>nd</sup> quarter. Why such a big drop? LeAnne stated that it was closed for nearly 3 weeks when we were having all of the changes with the management. And that this is just a slower time of year. They are now getting back on track and starting to do better. Trustee Shearer then asked what is going on with the Animal Control Truck? Al Stated that we were turned down for the loan because of our Audit not being in place. Randy stated that Because of it not being finished that Mark didn't want to fight with them, having to explain that the money for his cars and the money for the truck come from different places. He didn't want to leave a bad taste mouth's and Randy asked it to be taken off of the agenda. Al wanted to pursue getting it with the GRT's because it is a needed item.

Trustee Shearer Motioned to approve the consent Agenda. Fraley seconded the motion.

Discussion: There was no discussion of this item.

Roll Call: All were in favor, the motion carried

**Item #11 on the Agenda: Discussion/Action- Approve Application for Installation of Metal Building/Carport at 133 Rock Drive-Henry and Georgette Grosch.**

Trustee Shearer made a motion to approve this item. Trustee Fraley seconded this motion.

Discussion: There was no discussion of this item.

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

**Item #12 on the Agenda: Discussion/Action- Approve Extra-Territorial Water Service for 101 Dawson Road - Lisa Friedrich.**

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

Discussion: There was no discussion of this item.

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

**Item #13 on the Agenda: Discussion/Action- Approve Stock Item Order for Water Department.**

Trustee Fraley made a motion to approve this item. Trustee Hair seconded this motion.

Discussion: There was no discussion of this item.

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

**Item #14 on the Agenda: Discussion/Action-Approve Bid for the Northview Chip Seal Project.**

is passed. Mr. Rhodes is exclusively an attorney for liquor licenses and trials, and that He is working for Farmer's Country Market which is Smokey's Country Market here in Capitan. In 1981 All Liquor Licenses were allocated all throughout the State of New Mexico. This brought up two questions. #1 do you want to be a wet or dry town? Capitan chose to be wet. #2 Do you want to allow Transfers of Liquor Licenses? Capitan chose not to do Transfers. Thus, making the only way for this to happen is to have a Special Election. A Retailer License is the only one used for packaging and is referred to as inter locals. There are local option districts. This area has five. Alto, Capitan, Lincoln County, Ruidoso, and Ruidoso Downs. Within these areas there is a specific number of licenses that are allocated. One per every 2000. Population. Capitan had only one license and it is with Brewer's. The Election will be solely for Capitan and the people of Capitan are the only ones that are allowed to vote. It must be a mail ballot vote. The terms and time lines for the Special Election are in Statute 124: 1-5. A Special Election could cost approximately \$3440.00. Capitan could gain GRT's in the amount of \$3800.00 a month. The Election has to be held 70 days after a proclamation is delivered to the Clerk. Subsection 2 & 3 goes through all of the time lines. Trustee Shearer feels that we need to get with the County Clerk to make sure that we have all of the deadlines laid out and to make sure that we have all of the processes in place. The Board would need to approve a Resolution then do a Proclamation. Once the Proclamation is done this starts the time. Trustee Shearer stated that she would be willing to have a special meeting in order to get this done.

Trustee Shearer made a motion to instruct Zach Cook, The Village Attorney to prepare a resolution with an eye towards coming back for a Special Meeting with plans to Approve a Special Election Resolution. Trustee Hair seconded this motion.

**Discussion:** Set Special Meeting for Tuesday, February 28, 2023 at 5:30 PM. We will contact Attorney Rhodes to appear by zoom.

**Roll Call:** All Approved, the motion carried

**Item #6 of the Agenda: Discussion/Action-A Presentation by Karl Pennock- Accept Water Rate Study Report and Recommendations Subject to Rate Modifications.**

Trustee Fraley made a motion to accept the rate study but not to act. Trustee Hair seconded the motion.

**Discussion:** The Chair recognized Karl Pennock, who appeared by Zoom. Trustee Shearer stated that this was the first time that she was seeing the water and the sewer separated, and that the Trustee's did not receive the report until 4:30 this afternoon and did not have time to go over it. She strongly does not like the proposed 135% rate hike for the sewer. That this would only affect a small group of the core in the Village and they can't change to a septic. They have no choice. She feels that this would put too much of a strain on the core. She also disapproved of the removal of the rate & 1/2 for the extra-territorial customers. This is the contract that we have with the community and this would cause a lot of discord. Mr. Pennock explained that the reason that he separated the water and the sewer is based on a very low sewer rate. We have one of the lowest rates in the State average. Also, not having raised the sewer rate in such a long time. This is causing the water to completely subsidize the sewer fund. The rate & 1/2 would still remain the same, but once you deliver the water, the customers should not be charged again for the consumption of the water. You are using those fixed costs to bring services to those customers. It should just be a matter of usage and the usage in town should be no different than the usage in an extra-territorial. This is why I structured it this way. The critical thing to realize that if you don't take some kind of action in the near future you are going to lose out on some funding opportunities and you will just keep falling further behind. That is what Rate option 1 Shows. The Board has a fiduciary responsibility to manage both of these utilities as businesses. Trustee Shearer doesn't like that they were not given three viable options. Trustee Fraley stated that what they would really like to see is the rate & 1/2 usage charge kept and see what that would do to the overall Revenue needs. We would like to at least have the option to keep that. Mr. Pennock stated that He would like for the Trustees to give him any recommendations in writing so that he could make these adjustments.

Trustee Shearer made a motion to Postpone until the Special Meeting on Tuesday, February 28, 2023 at 5:30 PM Trustee Hair seconded the motion.

**Discussion:** Trustee Hair said that they should turn in their recommendations to AI by Thursday at noon, so that He could forward them to Karl.

**Roll Call:** All were in Favor, the Motion carried.

**Item #7 on the Agenda: Discussion- Train Depot Update.**

Trustee Hair made a motion to approve this item. Trustee Fraley seconded this motion.

**Discussion:** There was no discussion of this item:

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

**Item #15 on the Agenda: Discussion/Action- Approve Resignation of Donna Weekley as Administrative Assistant to the Clerk.**

Trustee Hair made a motion to approve this item. Trustee Fraley seconded this motion.

**Discussion:** There was no discussion on this item.

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

**Item #16 on the Agenda: Discussion/Action- Approve Increasing Credit Card Limit from \$5,000.00 to \$20,000.00.**

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

**Discussion:** Angela explained that when we are sending numerous people including PD to classes, having to pay for motels, food, doing orders for the office. We can hit our limit quickly. If the Card is declined, it can be rather embarrassing. The amount for any one transaction will never go over the \$5000.00 limit and we will still need to come before the board for approval. Trustee Hair suggested that we look into getting a P-Card. Our bank doesn't offer them at this time. Trustee Shearer would like the limit to be at 10,000.00.

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

**Item #17 on the Agenda: Discussion/Action-Approve Increase of Administrative Fees Charged to Greentree.**

\$1.25 is what we are wanting to raise it to from .57. Because Greentree raised their rate to our customers. We collect the money, we pay the taxes, and then we send the net to Greentree. We aren't even sure if we should be paying the taxes, since we don't provide the service. Trustee Shearer believes that the admin fees were set in the JPA with Greentree back in 2018. Al looked at the JPA and couldn't find it anywhere. Greentree can raise the rates at anytime that they want without needing our approval.

Trustee Shearer made a motion to postpone this item until the March Meeting, so that we can get more information about this. Trustee Fraley seconded this motion.

**Discussion:** there was no further discussion of this item.

**Roll Call:** All were in favor, the motion passed.

**Item #5 was changed with #18 on the Agenda: Smokey Bear Days 2024- Mary Lavin. Mary Lavin was not present.**

**Item #19 on the Agenda: 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 the open session.

Trustee Hair made a motion to close the open session and go into closed session. Trustee Fraley seconded this motion.

**Discussion:** There was no discussion of this item.

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

Trustee Fraley made a motion to come out of closed session back into open session. Trustee Hair seconded this motion.

**Discussion:** Trustee Fraley Certified that all we discussed in closed session both on the Agenda Item #19 pursuant to Section 10-15-1 Subparagraph (H)(7) and nothing else.

**Roll Call:** All were in favor, the motion passed.

Trustee Hair made a motion to Adjourn the meeting. Trustee Fraley seconded the motion.

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

Mayor Lowrance adjourned the meeting at 8:12 PM

Attest:

Al Cavazos

Ron Lowrance, Mayor, Village of Capitan