

**Minutes
Special Meeting
July 22, 2021**

The Village of Capitan Board of Trustees met in a Special Meeting on Tuesday, July 22nd, 2021 at the Village Hall in Capitan, New Mexico at 6:00 PM.

Mayor Lowrance asked for a moment of silence and led the assembly in the Pledge of Allegiance.

Mayor Lowrance called the meeting to order at 6:02 PM.

Roll Call: Mayor Lowrance – present, Trustee Fraley – present, Trustee Kearns – present, Trustee Shearer – present, Trustee Johnson – not present. Stephanie Bason – Village Clerk, Grace Centrella – Finance Officer, J. Leinneweber – Administrative Assistant, Angela Autrey – Court Clerk/Human Resources Clerk, Steve Osborn – Water Utilities Supervisor, Johnathan LaMay – Street Department Supervisor and 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 Approve the Agenda. Trustee Fraley seconded the motion. All were in Favor, motion carried.

Item #2 on the Agenda: Public Input. (Agenda Items Only).

There were no public comments

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

Trustee Shearer wanted to address an item that was posted at the gas station in Capitan that said the Village Board had given big raises, adopted a retirement program, were not engaged in conservative politics and called the Board Members RINOs. She went on to say that when she “came on this Board, a little over a year ago, first thing I did was read the Audits, before I came on the Board, read the Audits.” She found the Village had overspent the General Fund two years in a row and received audit findings for doing that. Trustee Shearer said she just finished going over, with Grace, the Village’s Fiscal Year ending June 30th. She said the revenues were budgeted for 1,336,000. with the actual revenues coming in at \$1,473,000 leaving the Village over on revenues \$136,893.07. She said on expenditures the Village had budgeted \$939,033. and spent only \$677,000. Trustee Shearer said Grace still had a few more “things” to enter but nothing big. The Village is under budget by approximately \$398,000. She said she doesn’t think the Board did “anything wrong by giving raises and by adding the retirement program.” Trustee Shearer pointed out that the Board “didn’t raise taxes to do any of this.” The funds came, primarily from State Gross Receipt Taxes and the Hold Harmless, Small Cities Assistance Fund. She said she thinks the Board “did a **good** job this year with the Village finances.” Trustee Shearer said she just wants “to refute anything that’s out there suggesting that we’re spending more than we got coming in.” Trustee Shearer said she thinks that did happen in the two Fiscal Years prior to this but not in this last Fiscal Year.

Item #3 on the Agenda: Mayor and Trustee Comments. (continued)

Trustee Shearer had something else to bring up, she received an email from a citizen that was trying to get a water tap. Trustee Shearer asked if she was charged for a line "up to the can"? The answer **was** "yes" and that the tap is actually for her brother. Trustee Shearer asked if they have received their Tap yet, the answer was "no", because they haven't finished paying what they owe \$646.49. Trustee Shearer thinks per Ordinance 215-7.A1 the cost for any extra line from the Main to the can would be covered by the Village and is included in the \$1250. the homeowner pays for the Tap. The Mayor advised the Board that the Water Dept had started digging for the line but then it rained almost every day with the rain filling in the ditch being dug for the line so they would have to stop, delaying the installation of the line to the can by a week, week and a half. The delay made the homeowner angry so the Water crew was out these last days in the rain to finish the dig because the homeowner was so mad. The Mayor said they have the line in but the meter can't be set until the homeowner finishes paying for the cost. Stephanie explained the homeowner is being charged \$1,250 for the Tap Fee, \$100 for the Security Deposit and \$896.40 for the Line Extension but were not charged for the additional connections needed. Trustee Kearns asked if the Line Extension was inside the Village limits, the answer was "yes". Trustee Kearns pointed out that it has been a policy of the Village to charge the homeowner the cost for pipe needed for a required extension from the Main to the can. The Mayor told the Board that Steve Osborn has the details and is on his way in to the Meeting. Stephanie said that "Steve followed the protocols we've had before." Trustee Shearer asked that Zach Cook read Ordinance 215-7.A1 and give his opinion. Zach Cook read the Ordinance out loud, (A copy of Ordinance 215-7.A1 is attached to these minutes.), and said that his interpretation is that any extra pipe needed to extend the line is included in the Tap Fee of \$1,250. But, he went on to say that the Courts "will defer to the Government Agency whose job it is to interpret that Agency's rules and regulations. In this case the Village of Capitan ... is in charge of interpreting the Ordinances for the Village of Capitan." Zach said now that the issue has come up, moving forward, the Board should address it.

Trustee Shearer wants to add the Water Ordinance for discussion on the next Agenda. The Mayor advised the Board that all the Ordinances have been reviewed by the Department Heads and he would like to schedule a Workshop so the Board can review the recommended changes and add their own. Trustee Fraley thought that some Ordinances come up more than others and that the review could start with those.

Trustee Shearer feels the Village should refund the amount paid to date by the homeowner for the pipe extension.

Trustee Kearns had questions regarding the status identification for items on the Infrastructure Capital Improvements Plan (ICIP) List. The Board decided to go over these when they get to that Item on the Agenda.

At this time Steve Osborn joined the meeting and advised the Board that the homeowner on Promise Lane was being charged for the Tap fee of \$1,250., the Security Deposit of \$100. and the cost for the additional required pipe to bring the Main Line to the property. Steve confirmed he was following protocol already in place. Trustee Kearns said there is a reason there are no houses on Promise Lane and it is because of the additional cost for the additional pipe required to get the Main Line to the property.

Item #4 on the Agenda: Discussion/Action – Approve Resolution – 2021-10 Final Quarter Financial Report Year Ending June 30, 2021.

Trustee Shearer made a motion to Approve Resolution – 2021-10 Final Quarter Financial Report Year Ending June 30, 2021. Trustee Fraley seconded the motion.

Discussion: There was no discussion

Roll Call: Trustee Shearer – yes, Trustee Kearns – yes, Trustee Fraley - yes

Item # 5 on the Agenda: Discussion/Action – Approve Resolution – 2021-11 Budget Adoption Fiscal Year 2021-2022.

Trustee Shearer made a motion to Discuss to Approve Resolution – 2021-11 Budget Adoption Fiscal Year 2021-2022. Trustee Kearns seconded the motion.

Discussion: Trustee Shearer pointed out that the Village brought in more revenue than was budgeted last year and the Village spent less. She doesn't want to change the Budget now but it makes it look like the Village is "dipping into investments." She believes this is because the Village is "under projecting our revenues, particularly the Small Cities Assistance Fund". The Mayor agreed. Trustee Shearer thinks the Board will "want to go back and revisit this and increase our Budget projections" because the Village is "not pulling money out of investments, we're well under budget." The Mayor explained that the Small Cities Assistance amount is based on the average of the amount given for the last three years, so it's different every year. Trustee Shearer agreed but the Board is consistently budgeting \$75,000 which isn't "even in the ballpark," giving the Budget the appearance that "we're dipping into investments and the reality is that we are not."

Trustee Kearns asked how the Board would change that? Trustee Shearer replied with a Budget Amendment and the Board should address this "in the next couple of months."

Trustee Shearer made a motion to Approve Resolution – 2021-11 Budget Adoption Fiscal Year 2021-2022. Trustee Kearns seconded the motion.

Roll Call: Trustee Shearer – yes, Trustee Kearns – yes, Trustee Fraley - yes

Item # 6 on the Agenda: Discussion/Action – Approve Request for Local Fiscal Recovery.

Trustee Shearer made a motion to Approve Request for Local Fiscal Recovery. Trustee Kearns seconded the motion.

Discussion: Trustee Fraley asked for an explanation of the item. The Mayor asked Stephanie to explain. Stephanie said the funding is distributed through the American Rescue Plan Act. It came from a distribution by the Federal Government to the State of New Mexico allowing the State thirty (30) days to distribute the funding to the municipalities. The State allocated each community a percentage based on a formula the State used to determine how each community was affected by the shutdown. The State has determined \$353,049.00 is the payment share the Village of Capitan would receive and is based on population. It's up to the Village to accept the funds, or not. Stephanie contacted the Municipal League and was told that they were unaware of any community that has not accepted the funds nor know why a community would not choose to accept the funds. Due to the short timeframe that didn't match up with the Open Meetings Act schedule she submitted the application and the State sent documents back which she forwarded to the Board. Trustee Fraley asked where will the funds go within the Village. Stephanie replied, like all funding there are restrictions and will have to spent according to the guidelines she sent to the Board. The funds can be spent at the discretion of the Village but must be within those guidelines.

Item # 6 on the Agenda: Discussion/Action – Approve Request for Local Fiscal Recovery. (continued)

Trustee Kearns had concerns that the Village would have problems spending the funds. He was told the funds could be used for needed work on the water tanks for which it is otherwise difficult to get funding and this could take up a good amount of the funds. Trustee Shearer asked if maybe they should involve the public in how it gets spent? The Mayor pointed out that the Federal Government has allocated relief funds for private individuals but that involving the public is up to the Board.

Roll Call: Trustee Shearer – yes, Trustee Kearns – yes, Trustee Fraley - yes

Item # 7 on the Agenda: Discussion/Action – Approve State Revolving Loan Opportunity.

Trustee Shearer made a motion to – Approve State Revolving Loan Opportunity. Trustee Kearns seconded the motion.

Discussion: The Mayor asked Steve Osborn to address the Board. Steve said this funding covers the Water Shop and the Mt. Capitan Waterline Project. The amount needed is 2 million dollars, zero (0) percent interest with 50% loan forgiveness. Trustee Shearer confirmed that this agreement requires a pledge of Gross Receipt Tax (GRT) revenues and asked if there would be a direct intercept of the GRT for the loan payment. Stephanie said she was asked if the Village would pledge up to 25% of the GRT and the Mayor said it's not clear yet how the GRT pledge would work. Steve said these details of the loan are yet to be determined. The Mayor said usually interception should only take place if the Village fails to make its loan payment. Trustee Shearer said she would want to know the details prior to approving the Loan Agreement. She thinks this is something they definitely need to move forward with.

Roll Call: Trustee Shearer – yes, Trustee Kearns – yes, Trustee Fraley - yes

Item #8 on the Agenda: Discussion/Action – Approve Millings Hauling Quotes.

Stephanie advised the Board that at this time the Village has only received one quote so this item will have to be included on the Agenda for the next meeting.

Trustee Kearns made a motion to Postpone Discussion/Action – Approve Millings Hauling Quotes.

Trustee Shearer seconded the motion.

Roll Call: Trustee Shearer – yes, Trustee Kearns – yes, Trustee Fraley - yes

Item #9 on the Agenda: Discussion – Prioritization of the 2023-2027 Infrastructure Capital Improvement Plan (ICIP) List.


Trustee Fraley made a motion to Discuss Prioritization of the 2023-2027 Infrastructure Capital Improvement Plan (ICIP) List. Trustee Kearns seconded the motion.

Discussion: The Board set the priorities for the ICIP List which does include a skateboard park and will adopt the Resolution for the ICIP List at the next regular meeting.

ADJOURNMENT

Mayor Lowrance Adjourned the meeting at 7:14 PM

Attest:



Stephanie Bason, Village Clerk



Ron Lowrance, Mayor, Village of Capitan

6:00 PM

[illegible]

Chapter 215. Water

Article II. Rules and Regulations

§ 215-7. Removal and installation of meter; tap fee.

A. New tap and service connection.

- (1) Upon application for a new tap and service connection by any consumer within the corporate limits of the Village, the applicant shall pay \$1,250 to cover the costs of a three-quarter-inch and a one-inch tap, installation of the tap, and necessary pipe from the main to the curb box.
[Amended 9-14-2010 by Ord. No. 2010-04]
- (2) The tap shall be installed by the Village. The Village shall own and maintain the water line from the main to the curb box, and the property owner shall own and maintain the water line from the curb box to the premises served.
- (3) The charge for any line extension shall be based upon the invoice on materials. There shall not be a connection or turn-on fee as set forth in Chapter 205, Utility Payments, § 205-3, when the tap and service connection is a new one.
- (4) The property owner shall be required to install a shutoff valve on his/her side of the curb box for all new connections.

B. Installation charges. Installation charges for new meters and water lines larger than a one-inch meter shall be based upon the invoice cost of said meter, stopcock, box, and line plus a fee of \$500. [Amended 9-14-2010 by Ord. No. 2010-04]

C. Meter removal and reinstallation charges.^[1]

- (1) There shall be a charge of \$50 to have the Village pull or remove the meter, or when the meter is removed for failure to pay delinquent water bills.
- (2) There shall be a charge of \$75 to reinstall any meter previously removed from any property.

[1] *Editor's Note: See also § 205-5C(2).*