

**Minutes  
Water Advisory Board  
November 16<sup>th</sup>, 2021**

The Village of Capitan Water Advisory Board met in a Regular Meeting on Tuesday, November 16<sup>th</sup>, 2021 at the Village Hall in Capitan, New Mexico at 5:45 PM.

Gary Tregembo called the meeting to order at 5:51 PM.

**Roll Call:** Gary Tregembo – present, Samuel Townley – present, Wanda Schmidt – present, Sherry Gowen – not present, Sherry Hair – present. J. Leineweber – Administrative Assistant and Kerry Hair – Water Department were also present. A list of others in attendance is attached.

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

Samuel Townley made a motion to Approve the Agenda. Wanda Schmidt seconded the motion. All were in favor 4-0 yes, motion carried.

**Item #2 on the Agenda Discussion/Action – Approval of the Minutes Regular Meeting September 21<sup>st</sup>, 2021.**

**Discussion:** J. advised the board that the September 21<sup>st</sup> Minutes would remain as originally written. In the October 19<sup>th</sup> Meeting the Board had requested that a portion of the Minutes in the discussion of Item #3 be removed because the minutes stated that Steve Osborn said the cost to drill a well would be \$600 to \$800 which is incorrect and the Board didn't remember discussing the cost of drilling a well. J. said that both she and Steve listened to the recording of the September 21<sup>st</sup> Meeting and Steve did in fact make that statement. J. went on to advise the Board that Steve did tell her that the amount of \$600 to \$800 should have been a cost per unit, possibly cost per foot.

J. told the Board one way to avoid this situation is to go to Skeletal Minutes which just give a broad description of what was discussed as well as the Vote.

The Board decided to stay with the way the Minutes are currently be done.

Sherry Hair made a motion to Approve the Minutes Regular Meeting September 21<sup>st</sup>, 2021. Samuel Townley seconded the motion.

**Roll Call:** All were in favor 4-0 yes, motion carried.

**Item #3 on the Agenda Discussion/ Action – Approval of the Minutes Special Meeting September 29<sup>th</sup> 2021.**

**Discussion:** J. Advised the Board that she has corrected the previous Water Advisory Board meeting time from 5:30 PM to 4:30 PM in the Minutes for Item # 3 and apologized to the Board for the error. Samuel Townley made a motion to Approve the Minutes Special Meeting September 29<sup>th</sup>, 2021. Wanda Schmidt seconded the motion.

**Roll Call:** All were in favor 4-0 yes, motion carried.

**Item #4 on the Agenda: Discussion/ Action – Approval of the Minutes Regular Meeting October 19<sup>th</sup>, 2021.**

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

Sherry Hair made a motion to Approve the Minutes Regular Meeting October 19<sup>th</sup>, 2021. Samuel Townley seconded the motion.

**Roll Call:** All were in favor 4-0 yes, motion carried.

**Item #5 on the Agenda: Discussion/Action – Recommend for Approval Extra-Territorial Water Service for 8429 US Hwy 380 – Thomas R. & Lois A. Cunning & Charles Cunning.**

**Discussion:** Kerry clarified for the Board which property was requesting the Water Service. Gary Tregembo wanted clarification of which properties on the west side of the Village, on the north side of US Hwy 380 were within Village Limits. Kerry was able to show Mr. Tregembo on a map which properties were inside the Village Limits.

Kerry explained to the Board that currently there is a 2-inch water line from E. Last/W. Last to Hwy 380 currently serving 16 taps which is at the maximum the line can handle. To provide water service to the properties across Hwy 380 a 6-inch line from East and West Last to Hwy 380 with the cost being split between the potential number of properties to be serviced in that area and the Cunnings paying their share of that cost. Final cost to the property owner will be determined by the Board of Trustees upon their review of the application.

Mr. Tregembo wanted to be sure that the property owners are aware there will be a cost to them for extending the water line to their property and Kerry told him that the property owners have been made aware of this.

Mr. Tregembo asked who would absorb the cost of boring under Hwy 380? Kerry said that would be figured into the final cost.

After some discussion as to the actual planned route of the water line and that it should take 580 feet of pipe plus a bore under Hwy 380, Kerry advised the Board that Steve Osborn suggests using an 8-inch pipe in the bore so it can support additional water service requests across Hwy 380 in the future.

There were a few more questions about costs and who would be absorbing them. J. explained that with the previously approved extra-territorial water service, Steve had suggested to the Board of Trustees the cost be split equally between all potential water service properties to be serviced by the water line extension, collecting only the share of the cost from the property owners actually requesting water service now and absorb the balance of the cost until each future property ties into the line, collecting their share at that time. Steve will be suggesting the same option for this water line extension to the Board of Trustees.

Wanda Schmidt made a motion to Recommend for Approval Extra-Territorial Water Service for 8429 US Hwy 380 – Thomas R. & Lois A. Cunning & Charles Cunning with Final Cost to be Determined. Sherry Hair seconded the motion.

**Roll Call:** All were in favor 4-0 yes, motion carried.

**Item #6 on the Agenda: Discussion – Review the Village of Capitan Water Ordinances.**

**Discussion:** Sherry Hair referred to Chapter 205-2- b and recommended this be simplified by deleting the word “which” in the second line, adding the word “and” also in the second line, and replacing the word “given” with “provided” in the third line, and deleting the word “shall” also in the third line. (This Chapter and section with the proposed changes has been attached to these minutes.)

Ms. Hair then referred to Chapter 205-5-c (2) and the charges of \$75 if the Village removes the meter and \$100 for replacing the removed meter. She then drew the Boards attention to Chapter 215-7-c-1&2 where it is stated that the charge to remove the meter is \$50 and to replace the meter is \$75, a discrepancy of \$25 for each process. She feels this exposes the Village to problems with the water service customers, they could dispute the amount being charged and for this reason the costs should reflect the same amount for the same process. The Board agreed. (Copies of these Chapters and sections have been highlighted and are attached to these minutes.)

Mr. Tregembo asked if the Water rates listed in 215-9 are current? J. was unable to answer that. (A copy of this Chapter and section has been attached to these minutes.)

Ms. Hair said she had one more item to address, 215-18- A (2) Water Emergencies. She is questioning whether 5 days is too long to wait considering this concerns a Water Emergency and there is a sense of urgency, some situations requiring immediate action. The Board thought this section should be reviewed and possibly a change in the chain of command be implemented. Maybe under the jurisdiction of the Municipal Judge who could act more quickly than waiting for the Board of Trustees to meet. Not that the Board be excluded but so action can take place much earlier to meet the emergency. (A copy of this Chapter and section has been attached to these minutes.)

J. advised the Board that the Board of Trustees are waiting until they have reviewed the 2021/2022 Fiscal Year Budget before reviewing the Water Ordinances and that these suggestions will be brought before them at their Water Ordinance Workshop. She informed the Board that they are invited to attend the Ordinance Workshops, that in fact the Trustees have requested and welcome their input and participation.

**Item #7 on the Agenda: Discussion – Water Programs, Projects, Services, Studies.**

Mr. Tregembo said he learned that counties, he thought in California, in cooperation with farmers were installing Solar Farms, erecting the panels above crops resulting in less water evaporation and less water usage, and it has been effective during the drought situation. With the passing of the federal infrastructure bill with regards to water, Mr. Tregembo was thinking of a program at Capitan Schools. There was some doubt as to how well this could be applied to ranching and ranches in the area but maybe nurseries and landscaping companies could take advantage of this. Mr. Tregembo thought that this could be used as an educational tool teaching different ways to manage water use.

Ms. Hair mentioned an email and link provided by Stephanie Bason for a webinar. She said based on the pieces she “was able to reflect on” it would be beneficial for members of the board to review, each at their convenience. It covered the agricultural aspects of ranchers and farmers and would be well worth reviewing. She asked whoever is interested to contact her and she will provide the link to the recorded webinar once it becomes available. Ms. Hair “wanted to thank Stephanie” for sending out the webinar information.

**Item #7 on the Agenda: Discussion – Water Programs, Projects, Services, Studies. (Continued)**

J. explained to the Board that she had forwarded the link to the Board Members for Stephanie but that she didn't have email addresses for Gary Tregembo and Samuel Townley. Mr. Tregembo said he would get his email address to her.

**Adjournment:**

Gary Tregembo adjourned the meeting at 6:53 PM



Gary Tregembo, Chairman



Wanda Schmidt, Secretary

[illegible]

## Chapter 205. Utility Payments

### § 205-2. Responsibility for payments, liens and deposits.

- A. Payment by owner; lien. All charges imposed in this chapter, along with interest as provided by law, and all costs, expenses, and attorney fees incurred in enforcing the same, are:
- (1) Payable by the owner, personally, at the time the charge accrues and becomes due; and
  - (2) A lien upon the tract or parcel of land being served from such time. The lien shall be filed and enforced as provided by law.
- B. Responsibility of renter. Subsection **A** of this section shall not apply if an owner notifies the Village that utility charges ~~which~~ may be incurred by a renter will not be the responsibility of the owner. This notification shall be ~~given~~ <sup>provided</sup> in writing prior to the initiation of the debt and ~~shall~~ include the location of the rental property.
- C. Deposit required; refund.
- (1) Requirement. The person(s) in whose name the utility service is ordered shall post a deposit prior to the installation of utility service by the Village.
  - (2) Payment by owner. If the person(s) ordering the utility service is the owner of record of the property, he will be required to post a security deposit of \$100 prior to the installation of any utility service.
  - (3) Refund of deposit. If utility bills are paid on time for a period of four years, the security deposit will be refunded by the Village.
  - (4) Payment by tenant. For utility service ordered by tenants, the person in whose name the utility service is ordered shall be required to post a security deposit of \$250 prior to the installation of any utility service.  
[Amended 1-13-2015 by Ord. No. 2014-03]
  - (5) Multiple units; deposits for each (See also § 215-4A.). In the event a water meter serves more than one unit, then the deposit shall be multiplied by the number of units serviced by the water meter.
- D. Deposit to satisfy delinquent charges; lien. Delinquent charges may be satisfied in whole or in part by drawing upon the deposit. At such time as the deposit is used to satisfy a delinquent charge, the Village shall cause to be sent a notice of delinquency to the property owner (if the service is being provided to a tenant), to the most recent address provided by said property owner pursuant to the provisions of § 205-1 of this chapter. Thereafter, the Village may file a lien on the property served as set forth in Subsection **A** of this section, and proceed in accordance with the provisions of NMSA § 3-36-1 et seq.

## Chapter 205. Utility Payments

### § 205-5. Utility bills; penalty for nonpayment.

- A. Reading meters; sending statements. Water meters shall be read monthly; and, if need be, statements for service may be billed in prearranged monthly customer cycles to expedite billing and payment.
- B. Due date. All utility bills shall be and become due and payable the 15th of the month, or first business day thereafter, after the mailing of a statement thereof on the respective billing cycle date.
- C. Late fee; water meter turn off; charges.
  - (1) Should payment not be received by the due date, a late fee of \$10 will be assessed on the 20th of each month, or the first business day thereafter. If, after 30 days from the due date, payment has not been received, the Village Clerk shall, in the normal course of business, have the water meter turned off.  
[Amended 9-14-2010 by Ord. No. 2010-04]
  - (2) The meter shall thereafter be checked periodically; and, should it show usage, said meter shall be removed forthwith by the Village; and a charge of \$75 shall be levied for said removal. A fee of \$100 shall be charged by the Village for replacing any meter removed, pursuant to this section (See also § 215-6C.).
  - (3) In addition, any person tampering with a meter may be subject to additional penalties under § 215-16.

## 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.<sup>[1]</sup>

- (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).

## Chapter 215. Water

### Article II. Rules and Regulations

#### § 215-9. Water rates.

[Amended 11-12-2002 by Ord. No. 2002-06; 6-10-2008 by Ord. No. 2008-04<sup>[1]</sup>]

Water rates for zero to 6,000 gallons' usage (base rate), excluding New Mexico gross receipts taxes, shall be as follows:

A. Municipal rates.

Meter Size	Residential	Institutional- Commercial	Industrial
3/4 inch	\$28	\$31.20	\$44
1 inch	\$28	\$44	\$76
1 1/2 inch	\$28	\$44	\$76
2 inch	\$28	\$76	\$108
3 inch	\$28	\$76	\$108

B. On May 1 of each successive year beginning with May 1, 2009, the federal consumer price index shall be added/subtracted to the monthly minimum bill for residential, institutional-commercial, and industrial. The rate shall become effective July 1 of each year.

C. Service outside corporate limits; Village approval. Any person requesting service outside the corporate boundaries of the Village shall make application to the Village Water Advisory Board. That Board shall make its recommendations to the Board of Trustees. Approval of the Board of Trustees must be granted prior to connection of service.

D. Meter installation; extraterritorial water connections. The cost for installation of the meter shall be as set forth in this article. Existing and duly approved extraterritorial water connections shall be charged at 1.5 times the rates set forth herein, including commodity charges for increments of water usage as set forth in this article.

E. Water rates for the bulk water station; charges. All water sold from the bulk water station will be charged at the rate of \$30 per 1,000 gallons or \$0.03 per gallon.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

## Chapter 215. Water

### Article II. Rules and Regulations

#### § 215-18. Water restrictions.

[Amended 11-12-2002 by Ord. No. 2002-06]

##### A. Water emergency.

- (1) The Board of Trustees of the Village shall determine, by resolution duly adopted, when a water emergency exists by adopting a water emergency resolution. Such designation of water emergency shall continue until rescinded by the Board of Trustees. At such times as a water emergency is declared, it shall be illegal for any person or entity using Village water to conduct any outside watering except in accordance with the conditions set forth in such resolution.
- (2) When a water emergency is declared, notice of such resolution shall be posted in at least three places in the Village, including Village Hall and the Capitan Post Office, and at least one other location in the Village. Notification shall also be published in a newspaper of general circulation in Lincoln County. Such resolution shall take effect five days after its passage by the Board of Trustees, and thereupon, all of the provisions of this article relating to water restrictions, water emergency and fines and penalties shall be in full force and effect.

##### B. Water conservation times.

- (1) The Village has established water conservation restrictions on the times during which outside watering may be conducted. It shall be illegal for any person or entity using Village water to conduct watering between the hours of 9:00 a.m. and 4:30 p.m. "Outside watering" includes:
  - (a) Watering lawns, yards or outside vegetation of any kind.
  - (b) Washing automobiles, except at commercial automobile washing establishments.
- (2) Notice of this restriction shall be posted in at least three places in the Village, including Village Hall and the Capitan Post Office, and at least one other location in the Village. Initially, notification shall also be published in a newspaper of general circulation in Lincoln County.

##### C. Water flowing in streets. It shall be illegal for any person or entity to conduct any outside watering which results in water flowing into the streets, culverts, curbs or gutters.

##### D. Violations; mandatory penalties.

- (1) Conservation. Any person found guilty of violating the watering restrictions or water conservation provisions set forth in Subsections B and C of this section shall be subject to fines and penalties in accordance with Chapter 1, § 1-18, General penalty, of the Code of the Village of Capitan. For the purposes of this section, each instance of illegal watering shall be considered a separate offense.
- (2) Emergency. In the event a water emergency is declared by the Village, any person found guilty of violation of the water restrictions set forth therein shall be subject to fines and

penalties in accordance with Chapter 1, § 1-18, General penalty, of the Code of the Village of Capitan. For purposes of this section, each instance of violating the water emergency resolution shall be considered a separate offense.