

**Minutes
Regular Trustee Meeting
February 13th, 2024
6:00 P.M**

The Village of Capitan Board of Trustees met for a regular meeting on Tuesday February 13th, 2024 at the Village Hall in Capitan, New Mexico at 6:00 PM.

Mayor ProTem Cleckler Called the meeting to order at 6:01 PM

Roll Call: Mayor Davalos – Absent, Mayor ProTem Cleckler – Here, Trustee Shearer – Here, Trustee Hair – Here, Trustee Menix – Here, The Village Clerk Angela Autrey, Fire Chief Kevin Kennedy, Water Department Steve Osborne, Street Department Johnathan LaMay, Chief of Police Randy Spear and other employees listed on the sign in sheet were also present the Finance Officer LeAnne Brasher was absent. A list of public people who attended are attached.

Item #1 Approval of the Agenda

Trustee Shearer motioned to amend the agenda to remove item number 3, to pull everything from the consent agenda and do them one by one, and to move item number's 11 and 12 to make them item number's 3 and 4. Trustee Menix seconded the motion. All in favor.

Discussion: No discussion was made on this item.

Roll Call: Trustee ProTem Cleckler – Yes, Trustee Menix – Yes, Trustee Hair – Yes, Trustee Shearer – Yes. All in favor.

Trustee Menix – Can I make a comment really quick? There have been several people ask that we speak up. That it gets hard for people to hear in the back. My voice projects but apparently, it's still not projecting loud enough.

Item #2 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). Lincoln County Cause Number D-1226-CV-2024-00009.

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 Menix seconded this motion. All in favor

Discussion: There was no discussion of this item.

Roll Call: Trustee ProTem Cleckler – Yes, Trustee Hair – Yes, Trustee Shearer – Yes, Trustee Menix – Yes

All in favor.

Trustee Shearer made a motion to come out of the executive session and go back into open session. Trustee Menix seconded the motion.

Roll Call: Trustee ProTem Cleckler – Yes, Trustee Menix – Yes, Trustee Shearer – Yes, Trustee Hair – Yes

All in favor.

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Discussion: Trustee Shearer attested that the only thing that was discussed in the closed session was the pending and threatened litigation on the agenda.

Trustee Menix- Do you want to make a motion or?

Trustee Shearer – Sure, I'll make a motion to direct staff and the Village Attorney to execute all documents necessary to close the case listed as Lincoln County Cause Number D-1226-CV-2024-00009 Spear v. Davalos.

Trustee Menix – I'll second.

Discussion: There was no discussion of this item.

Roll Call: Trustee Menix -Yes, Mayor ProTem Cleckler – Yes, Trustee Hair- Yes, Trustee – Shearer – Yes. All were in favor.

Item #3 Discussion/Action – Approval of Appointment of Angela Autrey as Clerk for the Village of Capitan.

Trustee Menix moved to approve the appointment. Trustee Hair seconded the motion.

Discussion: There was no discussion on this item.

Roll Call: Trustee Menix – Yes, Trustee Shearer – Yes, Trustee Hair – Yes, Mayor ProTem – Cleckler – Yes. All In favor.

Item #4 Discussion/Action – Approval of Randy Spear as Interim Chief of Police for the Village of Capitan.

Trustee Shearer moved to approve the appointment. Trustee Minex seconded the motion.

Discussion: There was no discussion on this item.

Roll Call: Mayor ProTem Cleckler – Yes, Trustee Menix – Yes, Trustee Hair – Yes, Trustee Shearer – Yes. All in favor.

At this time the following were sworn into office by the Municipal Judge, Lilly Bradley, for the Village of Capitan: Angela Autrey, Clerk for the Village of Capitan. Randy Spear, for the Chief of Police.

Item #5 Mayor and Trustee Comments –

Trustee Shearer – I would like to thank Angela and Mary for putting together the Smokey Bear gift bags for the Legislature. They were all very excited about their Smokey Bear stuff. I also wanted to congratulate the Library on receiving \$78,000 in capital outlay.

Trustee Hair – I have a quick question on sharing of websites. We have previously discussed that on the Smokey Bear Website, that we would put the Village of Capitan on there, the Museum as well.

Trustee Shearer – Just links?

Trustee Hair – Yes, just the links for everything put in. So that way, as the website is set up, the Village would then put in that website for the Smokey Bear Day Event since it's a big event. Does this need to be an agenda item?

Trustee Shearer – Probably. Shirley, doesn't that affect your 5013c status or anything, does it?

(Item #5 Continued)

Shirley Pavlovic – No, it's fine.

Trustee Hair – I will request that, that will be an agenda item.

Trustee Menix – Mr. Kennedy, I'd like to ask, could you please give me what your roll is in the City as far as your job? What's your job description?

Kevin Kennedy – Well my titles are, Emergency Manager, Fire Chief, Chief Procurement Officer, and Safety Officer.

Trustee Menix – Okay, are you Project Manager as well?

Kevin Kennedy – Yes, I am.

Trustee Menix – Okay. So, I'd like to ask you, in the grant, that I didn't get prior to voting for us to pass the grant for the Depot. Why you have in that grant \$20,000 for you to receive on top of the payment you already receiving from the City?

Kevin Kennedy – Well, because that's what they do. They put your wage in that grant. The grant pays for the project management.

Trustee Menix – But it's an expense we have to pick up.

Kevin Kennedy – No, it's not.

Trustee Menix – That's what it says on the grant, it says "A match". It says we have to match the \$250,000. And it says \$20,040 to Kevin Kennedy, and it says \$17,219.90 to earth work.

Kevin Kennedy – Okay, so that's going to be the time that I put in. See if you notice down the line the \$30,000 for Jonathan and the boys to do the dirt work, right?

Trustee Menix – Right

Kevin Kennedy – Okay, that's all what we are contributing to the grant. That is the match of the grant.

Trustee Menix – So, you're getting \$20,000 extra on top of your pay?

Kevin Kennedy – Oh, no!

Trustee Menix – That's what I'm asking. I'm confused, that's what I'm asking. We didn't get the grant ahead of time. That's why I'm asking the questions.

Kevin Kennedy – We couldn't give you the grant ahead of time because we weren't done with it.

Trustee Menix – I knew you weren't, that's why I'm asking you the questions tonight because I didn't have the grant ahead of time.

Kevin Kennedy – Okay. The match that we put in, goes towards points to receiving the grant. Because the more money that the local government puts in, the more points you receive to get the grant.

Mayor ProTem Cleckler – So, we are matching the \$37,000? Of the \$287,000?

Kevin Kennedy – Johnathan and myself are going to be doing in kind work so that is a match. There is no match for this, so the portion we can put in for this that we will probably put in anyway, goes for points to receiving the money.

Trustee Menix – Thank you for the clarity.

Mayor ProTem – I have nothing at this time.

Item #6 Public Input –

Steve Osborn – My name is Steve Osborn, I have to tell you. I fully support Angela Autrey and you appointing and approving her appointment. But, I am not pleased at all at the way you handled Al Cavazos, in terminating him. Al brought a lot to the table with his financial background, and all of his legal aspects. I am very disappointed. I don't think you did right. You did that on a basis on being compliant. Then you sat here this evening and you pre-discussed, before the meeting, the agenda. Are we going to follow the rules, or not?

Mayor ProTem Cleckler – I do believe what we discussed was, trying to follow the rules on it. We didn't discuss how we were voting on it.

Steve Osborn – But you discussed it privately. Your saying that you want to be open and honest to people in Capitán. You stand up there in violation of Open Meetings Act and discussed how you were going to do the agenda before the meeting.

Trustee Shearer – Thank you for pointing that out. We will try not to do anything like that again.

Consent Agenda Items removed:

Item # 7 Discussion/Action - Approval Minutes: Special Meeting January 23rd, 2024.

Trustee Hair motioned to approve the minutes. Trustee Menix seconded the motion with corrections made. Motion approved 3 to 1.

Discussion:

Mayor ProTem Cleckler – I do have one amendment. On the Mayor ProTem, it has on there that I voted Yes, and I abstained.

Janiece Wall – I will correct that.

Trustee Shearer – There were a number of mistakes. I don't want to go through and try to correct them all. I think we have Kevin saying, "I know who I am". And the numbers are not correct. So, I'm going to have to vote no. I don't want to put something on record that's not accurate.

Trustee Menix – I did discuss to Angela about my concerns about the length of them and she explained to me why. We had a discussion about that because I was concerned about 24 pages. I told her, I was willing to support the decision. At this point in time, she's looking into other options so they can be reduced down.

Roll Call: Mayor ProTem Cleckler – Yes, Trustee Menix – Yes, Trustee Shearer – No, Trustee Hair – Yes. Approved 3 to 1

Item #8 Discussion/Action – Approval of January 2024 Bills Paid.

Trustee Hair moved to approve. Trustee Minex seconded the motion. Vote 2 Yes, 2 No
Motion died.

Discussion:

Trustee Shearer – I have a question. Why do we have another bill for the Coppler Law Firm? Can I have a printed copy of the agenda? I have to look back and forth between these 24 pages of minutes.

Village Clerk Autrey – Honestly, I'm not sure if that's rolled over or something.

(Item #8 Continued)

Trustee Shearer – It looks like it was paid in January, it said \$2,200. It seems to me like we've spent about \$10,000 on that law firm and I don't think we've gotten anything out of it. If we had spent that money paying GreenTree, we'd almost be paid up.

Village Clerk Autrey – I didn't have much involvement with them. So, I'm not sure exactly what it was for.

Trustee Shearer- Yea, it says January 17th.

Public Ms. Strickland – Bobbi, I'm sorry, we can't hear a word you are saying.

Trustee Shearer- I'm sorry, the Coppler Law Firm. I'm questioning why we have another bill from the Coppler Law Firm in Santa Fe regarding GreenTree. I voted against that, every time it's come up.

Mayor ProTem Cleckler – Any more on bills paid?

Trustee Shearer – No, but I will vote no.

Public – I'm sorry, should this say Bills Paid January 2024 not 2023?

Trustee Shearer – Oh, that's a good catch.

Mayor ProTem Cleckler – Do we have a motion on bills paid?

Trustee Hair- I move that we approve the January 2024 bills paid.

Trustee Menix- I'll second it.

Roll Call: Mayor ProTem Cleckler – No, Trustee Menix – Yes, Trustee Hair – Yes, Trustee Shearer – No. Vote 2 Yes, 2 No. Motion Died.

Item #9 Discussion/Action – Remove Al Cavazos Off as Signatory on the Bank.

Trustee Shearer moved to approve the removal. Trustee Menix seconded the motion. All approved.

Discussion: There was no discussion of this item.

Roll Call: Mayor ProTem Cleckler – Yes, Trustee Menix – Yes, Trustee Hair – Yes, Trustee Shearer – Yes. All approved

Item #10 Discussion/Action – Add Brian Cleckler as Signatory on the Bank.

Trustee Shearer motioned to approve. Trustee Hair seconded the motion. All approved.

Discussion: There was no discussion of this item.

Roll Call: Mayor ProTem Cleckler – Yes, Trustee Menix – Yes, Trustee Hair – Yes, Trustee Shearer – Yes. All approved.

Item #11 Discussion/Action – Approval of Resolution 2024-01 Governing Body Meeting and Public Notice.

Trustee Shearer moved to approve. Trustee Hair seconded the motion. All approved.

Trustee Shearer – This has the same issue that I pointed out last month. Paragraph 4 it says, (Trustee Shearer read the paragraph). This is not a resolution. This is advice from the Attorney Generals office. It's inserted in the middle of this.

Village Clerk Autrey – They put that in, for COVID.

(Item #11 Continued)

Trustee Shearer- I know, but it needs to be written... Like down here it says, "Additionally, we are assuming the public body's staff also would be working remotely". If we're signing this resolution. Who is "we" in that sentence?

Village Clerk Autrey- Because they were working remotely at the time.

Trustee Shearer – This entire section needs to be written as a resolution that we are doing, not as advise for the AG like an email just plugged into the middle of this thing. It needs to be fixed. I thought the motion was to send it to the Attorney and have it fixed.

Village Clerk Autrey- We did.

Trustee Shearer – (Looks at the Village Attorney) Did you miss that? Can you please fix paragraph 4? I'd be willing to come back and approve it if we can amend it next month with a fixed paragraph.

Attorney Zach Cook – You mean to approve it tonight and then....

Trustee Shearer – And then come back.

Attorney Zach Cook – Yes, ma'am.

Mayor ProTem Cleckler – Do I have a motion?

Trustee Shearer – I'll reluctantly move to approve.

Trustee Hair – I'll second.

Trustee Shearer - Are you reluctant also?

Trustee Hair – I don't like voting on something that we haven't seen the final product of.

Trustee Shearer – Well, we've seen it twice.

Trustee Hair – I understand but we will have rewording of it.

Trustee Shearer – We are adopting it with what's there.

Trustee Hair – I get it.

Roll Call: Mayor ProTem Cleckler – Yes, Trustee Menix – Yes, Trustee Hair – Yes, Trustee Shearer – Yes. All approved

Item #12 Discussion/Action – Approval of Resolution 2024-02 Public Input Policy.

No motion. Approval Died.

Trustee Shearer – I will continue to vote against it. I do not believe in restricting the ability of the public to speak at these meetings. I don't like it. I don't like when it's done at the Legislature. And I'm not willing to vote for it here.

Item #13 Discussion/Action – Discuss and Set Budget Workshop Date and Time.

Mayor ProTem Cleckler motioned to set aside dates 20th of February, 5th and 19th of March at 6:00 p.m. for the budget workshop. Trustee Shearer seconded the motion. All approved.

Mayor ProTem Cleckler – I think we need this ASAP. I would like to set up maybe 1 every 2 weeks for three months. That way we can get going on budgets and next years and get everybody on the same page on what we can do.

Trustee Shearer- That's fine with me. I'm not available the 21st and 22nd. I could do Tuesday the 20th.

Trustee Menix – I'm good for the 20th.

Trustee Hair – I'm good for the 20th.

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Mayor ProTem Cleckler – 6:00 p.m. is fine.

Trustee Hair – One of the things that you can think of as you are setting this up. If you are wanting it every two weeks, my suggestion would be that one of the sessions an hour before the regular meeting.

Trustee Shearer - Is an hour enough time?

Mayor ProTem Cleckler – Does that work with LeAnne, getting ready for the meeting? If we do every two weeks.

Trustee Shearer – Will Tuesday's work for you?

Mayor ProTem Cleckler – I can make it work, it's fine.

Trustee Shearer – The 19th is a holiday, but the following week we could do it on Monday.

Trustee Menix- I could do Monday's too.

Trustee Hair - Tuesday's works better for me, with other meetings that I've got that I have responsibility's for. Is there any conflict with that?

Trustee Shearer – We can do the 5th. One week before our regular meeting.

Trustee Hair – What I believe what Trustee Cleckler was discussing, was that we have one every two weeks. I'm just suggesting that we have this first one, then make it part of the regular process. That an hour before the Council meetings, we will have a budget meeting. If that will work and not be a conflict.

Trustee Shearer – I really think the first few, we need to give ourselves more than an hour.

Trustee Menix- I think that's a good idea.

Village Clerk Autrey- You are going to overflow into the meetings when you first start.

Trustee Shearer – Can we do the 5th and the 19th and our regular meeting on the 12th?

Village Clerk Autrey- That would probably be better.

Trustee Menix – I can do that.

Village Clerk Autrey – 6:00?

Trustee Menix – I was just thinking of people that work that if they wanted to come.

Mayor ProTem Cleckler – That puts us through March.

Trustee Shearer – That's three. Then on the 12th if we need it we could set the rest of them.

Trustee Menix- On the 12th can we put that on the agenda to set more?

Trustee Shearer – Yea, when the Mayor is back.

Village Clerk Autrey – So you want, the 20th at 6:00; the 5th at 6:00; the 19th at 6:00 and Tuesday the 12th, that meeting you want to set up more dates?

Mayor ProTem Cleckler – I move that we set up those dates for a budget meeting.

Trustee Shearer – Second.

Roll Call: Mayor ProTem Cleckler – Yes, Trustee Menix – Yes, Trustee Hair – Yes, Trustee Shearer – Yes. All approve.

Item #14 Presentation – Presentation of Smokey Bear Day, Hometown Association – Shirley Pavlovic.

Shirley Pavlovic – Hi, I'm Shirley Pavlovic. I'm the treasurer of Smokey Bear's Hometown Association, and I'm coming before the Council and to our Honorable Mayor who's not here tonight, to request some support for the Smokey Bear Days. One of the things I am asking is

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that you support the closing of Smokey Bear Blvd. during the event for the safety purposes. I'm also requesting the use of some Village property. The first area are 3 parking spaces in front of Smokey Bear Historical Park. On the survey, it's still belonging to the Village. Even though these parking spaces are in front of the park. The second area I'm requesting to use is the community park/playground that is located behind the Smokey Bear Historical park. Part of that area belongs to the Park; the other part belongs to the Village and I am requesting use of the Village property as well as using the Park property. Area 3 is the vacant property beside the old Train Station. The fourth area is the paved area in front of the old fire station. I don't know that we will need all of these extra areas for the event, but we are thinking of parking and if we have an overflow of vendors, food truck, and that kind of thing. So, that is why I am making these requests to you for the use of the Village property.

Trustee Shearer – I move for approval.

Mayor ProTem Cleckler – It's a discussion only.

Trustee Menix – Can we get that on our agenda to approve?

Mayor ProTem Cleckler – Thank you Shirley.

Item #15 Presentation – Presentation of ViaVista Mapping on the Work They Have Already Done for the Cemetery.

Village Clerk Autrey- They were unable to be here tonight due to the weather where they were at. So, I'm sorry about that.

Mayor ProTem Cleckler – Okay.

Trustee Shearer – Does this money need to come out of the general fund? Is the Cemetery fund exhausted?

Village Clerk Autrey – No.

Mayor ProTem Cleckler – Didn't we already approve to pay them?

Village Clerk Autrey – Johnathan can still speak on that.

Item #16 Discussion/Action – Request for New Funding for ViaVista Mapping to Finish Mapping the New Part of the Cemetery – Johnathan LaMay.

Trustee Menix moved to approve the funding. Trustee Hair seconded the motion. All approved.
Discussion:

Johnathan LaMay- This is part of the new Cemetery. What we approved before was the old part. This is for mapping out the new part of the Cemetery.

Trustee Shearer – The old part, did it come out well? Is it what you expected?

Johnathan LaMay – They are done with the sounding and finding the unmarked graves. So, they are done with all the field work. Now they just have to go back and put those others in.

Trustee Menix – Thank you for sending out the email Angela. Would you, next time they come? I would like to see that but, I was out of town.

Village Clerk Autrey- It's really cool to see.

Trustee Menix – I would like to see that.

Johnathan LaMay – If this is approved, they will be here tomorrow. They have already done the map for the new part, just in case so. They will be here tomorrow.

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Trustee Menix - Oh, okay. I won't get to see them in action then.

Johnathan LaMay – They haven't done the new part of the Cemetery yet.

Trustee Menix – Oh, they haven't done the new part yet.

Johnathan LaMay - They won't be sounding that because there shouldn't be graves out there.

Trustee Menix – I move that we give the funding for the cemetery mapping.

Trustee Hair – I'll second.

Roll Call: Mayor ProTem Cleckler – Yes, Trustee Menix - Yes, Trustee Hair - Yes, Trustee Shearer – Yes. All approve.

Item #17 Discussion/Action – Approval of Appointment for Legal Services RFP 2024-01. –

Kevin Kennedy.

Trustee Shearer moved to appoint Lincoln County Attorney Zach Cook. Trustee Menix seconded the motion. Approved 3 to 1

Kevin Kennedy - Good evening. Okay, a little history on this. Our auditor advised us that we would have to do an RFP for all professional services. According to the statute from the procurement code which is 13-1-150 multi-term contracts. Contracts for professional services will not exceed 4 years. Including extensions and removals. When we have an engineering firm. Every 4 years, we have to go out for an RFP to get it out there. We went out for engineering this last time and we got one proposal back. So, that one was easy. RFP's are a good mechanism for spreading the wealth. If you will, because that is what procurement is all about in the State. To make it fair for all of the contractors out there and to be able to bid on these jobs. Professional Services, includes the services of architects, archeologist, engineering, surveyors, landscape architect and lawyers. So, that's why we are doing this. The auditor said we would have a finding if we didn't. That's why we went out for RFP. Just to let you know, the award shall be made to the responsible offer or offer's who proposal is most advantageous to public body.

Trustee Shearer – Responsive offer. Not responsible, responsive, isn't it?

Kevin Kennedy – It says responsible offer.

Trustee Shearer – I think that's a typo.

Kevin Kennedy – This is more of a request for qualifications. In professional services you try to get the qualifications that you need to do the job. Money plays a part in it but, it's not the ending rule and the most important part. The qualifications are. Okay, by code we published in a couple of papers. We published in the Roswell Daily Record, and we published in the Albuquerque Journal. There are no local papers within our area. So, we had to these places. The responses that we got, was one from Virginia, one from Indiana, one from Santa Fe, one from Albuquerque and one from Ruidoso. So, we got quite a few responses. A lot of what these companies do, they hire a company to look for RFP's to tell them, hey, there is an RFP out there. That's why we get people from Indiana, and Virginia because this company, told these people to respond. We sent them a packet and they never did give their proposal. Why they didn't respond, I don't know. We received two proposals at Village Hall by 2:00 p.m. on January 30th. One for Zach Cook, from Ruidoso. One from Walsh, Gallegos, Trevino, Kyle & Robinson out of Albuquerque. On January 31st – February 5th, I distributed the proposals to the evaluation

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team of three individuals known as Evaluator #1, #2, and #3. The evaluator did make an unbiased evaluation of the proposals received. Those were in your packet. It did indicate that Walsh, Gallegos, was the most qualified by quite a bit. So, that is the recommendations of the staff to go forward.

Trustee Shearer – Can we see the proposals.

Kevin Kennedy – You can see the proposals.

Trustee Shearer – I'd like to see the proposals.

Kevin Kennedy – Okay, I offered those. It's here in the letter. Do you want to see it? Brian came in this afternoon and looked at them.

Trustee Shearer – Well, I just got back into town.

Kevin Kennedy – Okay, not a problem.

Trustee Shearer – I have a question. This RFP says, "Village Council will award the contract to the individual or firm of the one whose proposal is most advantageous to the Village considering the evaluation factors listed in the General requirements and Paragraph "C" of this RFP. Right?

Kevin Kennedy – Right.

Trustee Shearer – So, paragraph "C" has thirteen items. Evaluation Criteria. I don't see those thirteen items in your evaluation sheet. The only thing I see is in paragraph "B". So, I'm very curious of you recommending an Albuquerque Firm, if number 3 is mileage expense for performing legal services, and number 4 is Per-diem for travel to perform legal services.

Kevin Kennedy – According to the proposal, they do not charge per-diem.

Mayor ProTem Cleckler – They charge \$.67 per mile to come down, and while they are traveling, they charge lawyer fees.

Kevin Kennedy – Right.

Trustee Shearer – I didn't see those in your criteria. So, it seems like we would be paying a lot to have someone travel down from Albuquerque.

Kevin Kennedy - With the technology that we have today, they can be on that TV like you were last time.

Trustee Shearer – Yea, but we know that that doesn't work very effectively. And if we have to go into executive session, how do we do that? We have to have them come down.

Kevin Kennedy – Take the TV with you.

Trustee Shearer – These ranking sheets were pretty widely varied. One evaluator gave somebody zero points and another gave them full points.

Kevin Kennedy - Okay

Trustee Shearer – They don't seem unbiased. I noticed one person said like, one of the criteria was litigation experience. Right? Can you tell me where in the RFP you asked them to detail litigation experience? I mean, that was worth 10 points. Where in the RFP, where in these 13 items do you ask for litigation experience?

Kevin Kennedy – (pause) It mentions in the mandatory requirements that litigation experience is necessary.

Trustee Shearer – But it doesn't say for them to outline their litigation experience. That's why we have such a wide variation I think, in these rating sheets.

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Kevin Kennedy – Okay

Trustee Shearer – So, it doesn't seem like this is a good procurement.

Kevin Kennedy – Okay. Do you want to do it?

Trustee Shearer – I'm having a hard time with these wide variations in scores among the evaluators.

Mayor ProTem Cleckler – Question. You just ask her if she wanted to do the Procurement. Isn't that your job?

Kevin Kennedy - That is my job, yes. I could use some assistance from some of you that have done it before.

Trustee Shearer – I thought you had taken Procurement classes.

Kevin Kennedy – I did.

Trustee Shearer – And you are the Chief Procurement Officer.

Kevin Kennedy – Yes.

Trustee Shearer – Who wrote this RFP?

Kevin Kennedy – I did.

Trustee Shearer – Did you use a sample somewhere, or did you just write it?

Kevin Kennedy – I used three different ones from three different Villages and compiled all of the information that I wanted.

Trustee Shearer – Well, it just doesn't seem like the ranking sheets match the procurement. Match the RFP. There are 13 items in paragraph "C" and there are a number of items in paragraph "B" and your ranking sheet has 4 items. What is accessibility and flexibility?

Kevin Kennedy – You call them when you need them.

Trustee Shearer – So, it's your opinion that, having someone on the phone is fine. Does this firm represent any other municipalities? This Albuquerque firm. Do they represent any other municipalities?

Mayor ProTem Cleckler – In the proposal, they had Vaughn down as a reference. The city of Vaughn.

Trustee Shearer – Do they represent Vaughn?

Kevin Kennedy – I guess so.

Trustee Shearer – Did they put in their proposal that they represent Vaughn?

Mayor ProTem Cleckler – I believe, they handled a legal case but I don't know.

Trustee Shearer – This says, have you ever represented a Municipality or State government before, if yes. What entities, agencies or government did you represent?

Kevin Kennedy – Yea, and they answered that question.

Trustee Shearer – What did they answer?

Kevin Kennedy – Vaughn

Trustee Shearer – They answered, Vaughn?

Kevin Kennedy – Yes

Trustee Shearer – So, they've represented one.

Mayor ProTem Cleckler – I have a question. Their lead person on that, Gallegos, are they in New Mexico or Texas?

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Kevin Kennedy – New Mexico. You have one Gallegos lady in Albuquerque and one is in Austin.

Trustee Menix – I actually, when I got to thinking about it. Lincoln County News, correct me if I'm wrong, aren't they online? Or Ruidoso News? Don't they put their newspaper online.

Kevin Kennedy – I don't know.

Mayor ProTem Cleckler – They do.

Trustee Menix – That was one of my questions. How come it was not put out locally. We have lots of lawyers around here. Number two, what happened to Las Cruces, Alamogordo all of these other places who are closer. I have a real problem with somebody from Albuquerque. I'm sorry.

Trustee Shearer – I do too. I don't think that works for us.

Kevin Kennedy – It's up to you guys.

Trustee Hair – With this being presented to us. What would be the impact of a protest? So, we put it out, you give it to us and we are going to vote on it and we don't choose one at this particular time. Are there any consequences to the Village?

Kevin Kennedy – Yes, they could protest and could end up in litigation.

Mayor ProTem Cleckler – So do we have legal counsel now?

Trustee Shearer – The criteria is, most advantageous to the Village, right? That's the criteria in the statute? Zach, how long have you been the Village Attorney?

Attorney Zach Cook – 20 years

Trustee Shearer – Yet, some people ranked you low on experience.

Attorney Zach Cook – That's okay.

Trustee Shearer – I think the most advantageous thing for the Village is to have a Lincoln County Attorney.

Trustee Menix – I agree.

Trustee Shearer – I'm going to move to accept the proposal from the Lincoln County Attorney.

Trustee Menix – I will second that.

Mayor ProTem Cleckler – Any more discussion on that?

Roll Call: Mayor ProTem Cleckler – Yes, Trustee Menix – Yes, Trustee Hair – No, Trustee Shearer – Yes. Approved 3 to 1

Item #18 Discussion/Action – Approval of Resolution No. 2024-07 Authorizing and Approving Submission of a Completed Application for Financial Assistance and Project Approval to the New Mexico Finance Authority for the Colonias Infrastructure Fund – Kevin Kennedy.

No motions on the table. Did not pass.

Kevin Kennedy – The total project cost for this, which is Mt. Capitan Road Waterline Replacement – Phase II. The job has been engineered for two years so it's ready to go. A lot of funding sources won't give you money unless you show them that this job is shovel ready. The cost of the job is 2.086 million. The match on this will be, \$189,636. The loan would be the same. It's a 20% total. 10% match, 10% loan. There is a possibility where we can combine the match and loan, to have a loan for those two amounts. I checked into some federal matching grants, which they don't have. We will talk to the USDA about getting us the match but it's a

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50% match on their loan. So, any way you look at it, we will be paying \$100,000. So, let me specify something, if our audits aren't done by the 29th of March, there will be no sense even putting in for this grant. Because, I will have to pull the plug on it. We will not be able to, I found that out the hard way last year.

Trustee Shearer- Because we lost 2.2-million-dollar grants, because of the audits.

Mayor ProTem Cleckler – Last year?

Trustee Shearer – Last year.

Kevin Kennedy – We lost a 1.8 last year because of the audits.

Trustee Shearer – Okay

Tiffany Menix – Is it correct, we are still paying for \$100,000 from the 2015? Is that correct?

Kevin Kennedy – Yes, there is still one loan on the books from the Colonias back in 2015.

Tiffany Menix – Okay. Second of all, did you have to write a grant for this, or is this a Resolution? Is there more paperwork to this?

Kevin Kennedy – No, this is it. I haven't started the application.

Tiffany Menix- Okay, alright like I said, I'm learning.

Kevin Kennedy – I didn't want to waste my time.

Trustee Shearer – This is for water.

Kevin Kennedy - Yes

Trustee Shearer – You say we still have one outstanding. At the end of fiscal year 2023 the water department had \$165,000 in restricted funds. That was, I believe set aside to service that then?

Kevin Kennedy - I don't know. I thought it was going to come out of General funds.

Trustee Shearer- Well the bank statements you guys gave us showed \$37,000 in the water fund. So, I'm wondering where the \$165,000 in restricted funds has gone.

Village Clerk Autrey – It's in the CD's. That's the one that they had set aside that they switched twice. One year it was in the water, one year it was in the General. Why they switched it, I don't know. They didn't have permission to do that. That is what Pam had told us. Then we came to ya'll to tell us where it needed to be.

Trustee Shearer – Okay, that's \$165,000 restricted. And then the water department also had \$111,000 in investments. Okay, we were told that we had 2 \$500,000 CD's for the General fund. And then \$314,000 in Money Market.

Village Clerk Autrey- \$308,000

Trustee Shearer- So, where is the \$165,000 in that?

Village Clerk Autrey- I don't know, I'd have to sit down and look at it. I think we have it in the Money Market.

Trustee Shearer- Okay. So, if the water money is actually in the investments, then we only have 1.3 million in reserves in the general fund.

Village Clerk Autrey – You'll have to ask LeAnn on that.

Trustee Shearer – I can do math. The other thing is, at the end of fiscal year 2023. The waste water fund, had \$500,000. Where is that money?

Village Clerk Autrey – We haven't broken it all out.

Trustee Shearer- It's in the General fund?

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Village Clerk Autrey – No, in water.

Trustee Shearer – But there is only \$37,000 in the water fund.

Village Clerk Autrey – I'm telling you, that's not right. The bank statements are right. But the thing you are going by, is not.

Trustee Shearer – The bank statements are right. I'm looking at the bank statements.

Village Clerk Autrey – We still need to break out the waste water, out of the water. Right. I don't know how to explain it to you until we have a budget workshop.

Trustee Shearer - If there is only \$37,000 out of there, how do you take \$500,000 out of it?

Village Clerk Autrey - The water?

Trustee Shearer – Uh Huh. Water Department, \$37,187.

Village Clerk Autrey – When we took out the water, we did not take out the full amount from General. We just opened the water account to get it in a fund. Okay, to start that for the auditor. We had to open an account to get it started. We didn't put in the whole amount.

Trustee Shearer – Okay, so, the general fund currently has \$500,000 in it.

Village Clerk Autrey - Yes.

Trustee Shearer – It owes \$500,000 to waste water.

Village Clerk Autrey – Those are in the CD's.

Trustee Shearer – So, the 1.3 million in CD's is not General funds reserve. Somewhere around \$665,000 of that is water.

Village Clerk Autrey – The money market.

Trustee Shearer – We have 2....

Village Clerk Autrey - We have 3 CD's

Trustee Shearer – We have 3 CD's. \$500,000; \$500,000; and the money market is \$300,000.

Village Clerk Autrey - There is more than that in them. There is 3 CD's.

Trustee Shearer – I've got them right in front of me.

Village Clerk Autrey – Okay, the money market is at WAFD.

Trustee Shearer – The money is \$314,000, \$318,000 somewhere around there.

Village Clerk Autrey – There should be 3 CD's that are currently at Citi Bank.

Trustee Shearer – There's 3 CD's. 1.3 million. No, there's 2 CD's and a money market.

Village Clerk Autrey – You are missing a CD. I'm sorry.

Trustee Shearer – There is \$111,000 with water. There're 4 total investments. Two for half a million, money market for \$314,000 and one for \$111,000. \$111,000 is water, and that was in the budget, and that leaves 1.3 million if you are telling me that the \$500,000 for the waste water is in there, and \$165,000 in restricted funds are in there. Then we only have about \$700,000 in general funds reserves.

Village Clerk Autrey – I'd have to look at it. I can't do math in my head right now.

Trustee Shearer – Okay, I understand. This is what really concerns me because we don't have the reserves showed on the budget report.

Village Clerk Autrey – I'm not saying the budget report is correct. I don't like her budget report.

Trustee Shearer – We are being asked to make decisions about money. About applying for grants and matching funds and we don't have an accurate.... It's not just little amounts. We're talking about \$665,000. This gives me great heartburn.

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Kevin Kennedy - I would like to make a suggestion for the staff to think about. What we need to do is plan the grants throughout the year, and put the matches in the line item, with the grants that we are going to have. That way we know exactly what we have to spend. Have a reserve line item for grant matching.

Trustee Shearer – Let me ask Angela a quick question. Do you know if we've received the small savings assistance fund yet?

Village Clerk Autrey- No, not yet.

Trustee Shearer – Okay, by Statute it has to be done March 1st. So, I guess we'll know shortly. Because we budgeted \$300,000. I don't have any idea if that is what it's going to come in at.

Village Clerk Autrey- It should be.

Trustee Shearer- The Statute says between February 1st and March 1st. I noticed you moved \$43,000 to the Smokey Bear Enterprise Fund.

Village Clerk Autrey – Yes. That's where it should have been. What we are trying to do is, everything from 2021, when we went back and started everything. Trying to get everything back into QuickBooks, we opened the funds. Smokey Bear, Water, and everything like that, to get the separate fund accounts because they had it all into one account. So, we were trying to separate them out. That's what we've been working on. Trying to get the correct numbers.

Trustee Shearer – Okay, but as you get closer to those correct numbers, you are going to realize that we only have about \$700,000 in reserves in the General.

Village Clerk Autrey – We've been working with the accountant to get those numbers. That's what's taking us so long. That's what we are doing.

Trustee Shearer – Where are the revenues from the sewer fees going right now?

Village Clerk Autrey – Into water right now. We haven't broken them out.

Trustee Shearer – Well it's very hard to say we can come up with the matching funds when we are unable to determine how much money we have.

Kevin Kennedy – I can understand that. I can write them and tell them, this is what we owe.

Trustee Menix- We all think that we need the infrastructure done. The problem is, we just don't know where we are at. I have looked at stuff, and these girls are about sick of me coming in, telling them, I need some more. I just can't really figure it out. When you look at the 2020 audit, the biggest thing is, aside being over budget, they are like, you've got to quit spending over budget. You've got to do your budget and stay within your budget. I'm pretty sure we are going to find out, in 21, 22 and 23 we've over spent our budget. And we are still going to get those findings.

Trustee Shearer – And we are doing it this year again.

Trustee Menix – Yes, we are going to be over budget again this year from what I can tell. We've got to get the spending under control and get it down to where we are staying in budget before we can really do anything else until we know exactly where all of our money is. I've spent countless hours. I know Brian probably has, Sherry probably has. That's why we need budget meetings to get this figured out. Put our heads together and try to figure out what's going on, and where we are at and we are at the mercy of the audits. The auditor. But I think she is almost done with 20-21, am I correct Angela? Is that what she's telling you, and then they said that 22 and 23 would come pretty quick after that.

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Village Clerk Autrey – We are working with the accountant right now.

Trustee Menix – Okay, but until we do that, I'm just reluctant to spend any money.

Kevin Kennedy – Just bear in mind that, you are going to be receiving money for Tiger Drive. Which is 1.3 million. So, our match on that is \$72,000.

Trustee Shearer - That's not in the budget.

Kevin Kennedy – I don't know.

Trustee Shearer – You have until March 28th to submit this?

Kevin Kennedy – No, I have to submit it by March 8th.

Mayor ProTem – March 28th if we don't have our audit in.

Trustee Shearer – All 3 audits done by March 28th.

Kevin Kennedy - We have to have at least 2.

Mayor ProTem – Two out of the 3 we owe?

Kevin Kennedy - Two out of the 3 and an extension on the other. So, that's not going to happen.

Mayor ProTem - That's not going to happen.

Kevin Kennedy – I would not feel bad about saying no to this. I really wouldn't. I don't want to waste my time.

Trustee Shearer – I'm less concerned about your time, I'd like to get the money if we thought we could get the match. I would hate to pass up the opportunity to get a Colonias grant, but I can't get my hands around the money in the bank.

Kevin Kennedy – I understand, and that's the way I figured it but, I had to try.

Trustee Menix - We want the community to realize, we know we need lots of work done in infrastructure. Then again, we need to know what our bottom line is. We just can not keep spending money without knowing the bottom line. Period. That's where I'm at.

Trustee Hair – This is for the waste water, right?

Steve Osborn – No, it's water on Mt. Capitan Rd.

Trustee Shearer – The matching funds would come out of the Water fund. It's appropriate. If we could just figure out where all of that money is. I think one of those CD's is going to have to go to Water.

Kevin Kennedy - Well, we were thinking it was going to come out of Water that they were going to start hauling but, they haven't started hauling yet. I think that's what they were thinking.

Trustee Shearer – Well, you know what they say about counting your chickens.

Mayor ProTem - Well, I need to ask is there a motion to approve this resolution?

Trustee Shearer – I regretfully, I wish I could because I don't want to pass up a grant. I think we could get a Colonias grant.

Kevin Kennedy – We could, if the audits were done. I would be really confident.

Mayor ProTem - We are pushing if for one but to have two, it's going to be hard.

Trustee Shearer - I don't even know where those restricted funds are at this point. I think we've got restricted funds set aside for debt service but are in the investments somewhere.

Mayor ProTem - Adjourned.

Adjournment:

Meeting adjourned at 7:09 PM.


Minerva Davalos, Mayor

Attest:


Angela Autrey, Village Clerk



VILLAGE OF CAPITAN

February 13, 2024

Trustee Board Meeting

6:00 PM

NAME	ADDRESS	TOWN
Ruby + Peggy Wilson		Capitan
Frances Taylor		Capitan
Bruce Miller		Capitan
Phyllis Bradley		Capitan
Nadette W. Hugg		
Kary Stinkland		Capitan
Celia Jr		Capitan
Steve Osborn		Vol C
Linda Norton		Capitan
Benny Green		Capitan
Mary Lanni		Capitan
Phillip Wall		Capitan
Nema Spear		Capitan
Dario Shaw		Capitan
JONATHAN WA MAH		"
BRIG TUTHLE		"
JUANITA TUTTLE		"