

**Minutes**  
**Special Trustee Meeting**  
**January 23<sup>rd</sup>, 2024**  
**6:00 P.M.**

The Village of Capitan Board of Trustees met for a regular meeting on Tuesday January 23<sup>rd</sup>, 2024 at the Village Hall in Capitan, New Mexico at 6:00 PM.

Mayor Davalos Called the meeting to order at 5:56 PM

Roll Call: Mayor Davalos – Here, Trustee Shearer – Here (via zoom), Trustee Hair – Here, Trustee Cleckler – Here, Trustee Menix – Here

**Item #1 Approval of the Agenda**

Trustee Menix made a motion to amend the agenda. Trustee Shearer seconded the motion to amend.

**Trustee Hair** – Madam Mayor, I make a motion to approve the agenda.

**Trustee Menix**- I'd like to approve the agenda but with an amendment please.

**Mayor Davalos** – Okay

**Trustee Menix** – I'd like to move #13 to #4.

**Mayor** – Okay, 13 would be selection of Mayor ProTem, move it up to 4.

**Trustee Menix**- Yes.

**Mayor Davalos**- Okay. Any, discussion on that? Everyone is okay with that? Okay. So, 13 is

**Trustee Shearer** – Mayor, I'll second that motion to amend the agenda.

**Mayor Davalos** - Okay, thank you. Below four is what I'm looking at?

**Trustee Menix**- Between 3 and 4, I guess. Yea

**Mayor Davalos** – Between 3 and 4. Okay it will go between 3 and 4. Okay, so we have an approval on that.

We'll go to our Mayor and Trustee Comments. Trustee Hair, we'll start with you.

**Item #2 Mayor and Trustee Comments –**

**Trustee Hair**- Thank you Madam Mayor. At this time, I have no comments to make.

**Mayor Davalos** – Thank you, Trustee Menix.

**Trustee Menix**- Nothing at this time.

**Mayor Davalos** – Thank you, Trustee Cleckler.

**Trustee Cleckler**- Yes, I have just a couple of things. First of all, I'd like to thank the city for sending me to Santa Fe, to the Municipal League. It was very enlightening. I learned a lot in all of the classes and I also made a lot of contacts. On those contacts, one of them I made today, and talked to them about State statutes and State Laws. I don't understand why Police Officers in Capitan are not Commissioned, when it was on the Mayors desk. It has nothing to do with the Trustees. Trustees have no opinion on it one way or the other. It's all up to the Mayor and it is also, it doesn't matter who the Police Chief is. So, as of right now we don't have commissioned police officers on the force. So, we are basically paying, paid suspension. So, I just wanted to make that public knowledge of what is going on. That our police officers are not commissioned until the Mayor (inaudible)

**Mayor Davalos** – Okay. Thank you. I do have comments....

**Trustee Shearer**- Mayor, you skipped me.

**Mayor Davalos** – I'm sorry, Trustee Shearer.

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**Trustee Shearer** – (inaudible) I wanted to say that we had the Smokey Bear Day at the Legislature today. It was a very nice event. Wish more people could have been here.

**Mayor Davalos**- Okay, Thank you. And the Smokey Bear Day Celebration will be in the first weekend in May, correct?

**Trustee Shearer**- We advertised that. We set it along the House floor.

**Mayor Davalos**- Nice

**Trustee Shearer**- There is a report on the Santa Fe (inaudible) We believe they will be doing a story.

**Mayor Davalos** – Okay, Thank you. Okay, I had one statement prepared but there have been some items that have come up. So, I'm going to start with something else. Last week January 16<sup>th</sup>, we opened up our meeting, and at that time we had three Trustees that voted not to approve the agenda. By doing that, it prevented myself, and you as Trustee's for voting for vital and financial issues, which are time sensitive. There is a process in which the complete rejection of an agenda can be averted. In order to help us with options and protocol, I want to let you know that I am looking into some continuing training for myself and trustees. So, the more training we get, the better we can serve the community. Okay, since the vote on the last meeting to adjourn and not to proceed with the items at hand. On January 16<sup>th</sup> 2024 at 8:30 in the morning, Randy Spear filed a Writ of Mandamus against me personally, not naming the trustees who voted **not** to approve the agenda. The writ is a court order. This court order is ordering me to sign the Village of Capitan commissions cards. The signature of the Chief of Police is also necessary in order to be a valid commission card. By not giving me the opportunity to name my appointments, it prevented us from providing our community with a vital service. The court order did also give us until February 5<sup>th</sup>, 2024 to sign and issue these commission cards. Which this meeting will determine if we can comply. In order to comply with this order, a Police Chief will have to be appointed and approved by the trustees. Randy did know that he would not be appointed as Chief in this administration. My question is, how did Randy know that the appointment would not be accomplished, the Chief of Police and the other two positions? I also want you to know you will be paying for legal services if we do not comply with this court order. So, that answers....

**Trustee Shearer** – Mayor may I ask a question?

**Mayor Davalos** – Yes ma'am.

**Trustee Shearer** – Is the Village Attorney present?

**Attorney Zach Cook** – Yes.

**Mayor Davalos** – Yes, he is.

**Trustee Shearer** – Mr. Cook is there a (inaudible) the board's action and this Writ. As I understand that the current Police Chief holds over until a new Chief is appointed and the two are not related. This is not based on the Board's actions. In fact, I don't even know when that thing was filed. It's my understanding it arose on January the 1<sup>st</sup>. I was not aware of the connection between the board not approving the agenda and the Writ. Can you speak to that?

**Attorney Zach Cook** - Mayor, council, I have not seen the Writ. Or the petition for the Writ. Or the Writ that's signed by the Judge. I don't know if there is a nexus between the two. I know that, you have a statute that says that the Mayor shall sign the commission cards. You also have a statute that says, they Mayor shall, at the organizational meeting, appoint, or offer a name for appointment as a Police Chief. I don't believe that there is anything like, if there is a Police Chief that you intend to not appoint. But at the beginning of the year, you are now the Mayor and you have been sworn in. The previous Mayor is no longer Mayor. If you were to sign the commission cards, it doesn't bind the Mayor to that particular Police Chief. It's just the act of commissioning them. So, I don't know that anybody is to blame here. I don't think that if this matter were to go to court the 5<sup>th</sup>, or whenever the hearing is. There is a lot of

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tension in the room between all the different players. The courts, it's going to be a much cooler, calmer atmosphere. The courts are going to decide that. I don't know, where it's going to fall. I don't know what the status is, because it's not clear to me, to what happens to the commissioned officers when the Chief Executive that signed the previous card, is no longer in office. All I know is that the Mayor shall sign the commission cards. That hasn't happened. Are the courts really going to say that all of the sudden the Police Officers are not commissioned? I don't really want to have that fight. I think there are some risks involved in not signing the commission cards, and I think that the best way to mitigate those risk should be to sign the commission cords. That again, does not bind anybody to any future appointments. So, I don't know if that answers your question or not between the Nexus and what the Law is.

**Mayor Davalos** – Okay, thank you.

**Trustee Shearer** – Well what I thought I heard was the Board being blamed for the commission cards not being signed.

**Mayor Davalos**- No. They were not being blamed. The statement was that, I was ready to go on with this and was blocked by the adjournment of the meeting. So, that was not... I was trying to work with the trustees, and trying to get this taken care of.

**Trustee Shearer** – So, Mayor, is there a plan for you to get it taken care of? Do you plan on signing the commission cards?

**Mayor Davalos** – Yes ma'am. That what we are working on tonight and we sill see where we go from the meeting tonight.

**Trustee Shearer** – Okay.

**Mayor Davalos** – Okay, the statement I had from last week that I was going to present. (sigh) The thing is after the outcome of our last meeting, I basically found out that I had a runaway stagecoach. I have no choice but to take the reins and keep it from going over the cliff. I want to clarify some of the statements/accusations made at the last meeting. There are three things I am going to address, is the Conversation between myself and Trustee Cleckler. Another thing I want to address is demands, threats, and attempts of intimidation. Of possible conspiracy to lure me to violate the Open Meetings Act and on something I really hate going into but there's two statements that I do want to address and this is social media.

On 1-2-24, the first day of my official capacity. We worked 3 days that week. I had payroll to take care of, review resolutions for update, rough draft of the agenda, review documents for Trustee Packets. Review on tasks to be accomplished for the week of January 8<sup>th</sup> through the 11<sup>th</sup>. January 8<sup>th</sup> through the 11<sup>th</sup> was travel time, Mayor and Trustee training in Santa Fe. All the trustees and myself attended. Thursday on the 11<sup>th</sup>, I arrived at the office at approximately 2 p.m. I began finalizing the agenda and trustee packet for posting and distribution to trustees, signing checks for payment on invoices, and being briefed on activities during the time I was in training. I was reviewing correspondence. At approximately 5:00 p.m., Trustee Cleckler came to the office. During that conversation, Trustee Cleckler asked if I would give him the names of my appointees. I told him that during the campaign and after I had read some allegations and concerns about possible appointments. I told him, that at that time I was still researching and wanted to confirm or dismiss these accusations before I could be completely be sure of these appointees. Trustee Cleckler then said, and I am paraphrasing here, "if you do not give me the names, I will have to vote no on anything you present for a vote." I told him that was his choice, and he could vote however he felt he had to. He left at approximately 5:45. At approximately 6:37 p.m. I received a text from Trustee Menix with a message containing these words, "you need to immediately". A photo of the Village Ordinance, which is 50-2 and a photo with the ordinance on appointment of Village Officials. I responded with a thumbs up. I wondered how she knew that I didn't disclose my appointee names. At that moment I felt that I was being lured into a violation of the Open Meetings Act

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and had no further conversations or media contact with her, Trustee Cleckler or any other trustee. I later received an e-mail from Trustee Menix implying, I was violating transparency obligations. I did not respond. Once again, I did not give into the attempt, that I felt, that was lure me to violate the Open Meetings Act.

**Trustee Menix** – May I respond to that real quick, please?

**Mayor Davalos** – No ma'am, not at this time.

**Trustee Menix**- Okay.

**Mayor Davalos**- Social Media. Like I said, I do not go onto social media. This was brought to my attention. I thought we need to address it. There is a statement on there that was made, "about time we were held accountable." I felt that they were talking about the Trustees and myself. Trustee Cleckler, Trustee Menix, Judge Bradley and I, just started our positions. And I'm sorry, Trustee Hair. We just started our positions and I'd like to know, what we are we to be held accounted for? We just started. I know there's that happened before us and are we to answer for the sins of our fathers? All I ask is to give us a chance to be able to learn what we need to in order to provide what we have to for this community. We are learning, we will be making mistakes. We ask for you to be patient with us, and help us out. We do not say that we know it all, but we would like to have your help also. Now, for that person, I'm not naming names, but if we all stop and think about it, if we look in the mirror. What do we see? Can we tell ourselves that we are perfect? I will be the first one to say, I am not perfect. I will make mistakes. I ask that you all help me work through these mistakes and I ask that we all work together in order to provide what we need to for the community. Now the second one. It was brought to my attention, that Ms. Provine, your statement was, and I am paraphrasing again, "think they'll quit?" My question is, is that a concern or a goal? I want to know. Are you concerned?

**Public Audience Provine** – That is out of context so I don't know what it talking about.

**Mayor Davalos** – Okay, I am paraphrasing. It was brought to my attention.

**Public Audience Provine** – That's (inaudible)

**Mayor Davalos**- Ms. Provine. (uses gavel)

**Public Audience Provine** – You are putting on the record.

**Mayor Davalos** – Yes, I am.

**Public Audience Provine** – And it is not...

**Mayor Davalos** – Ms. Provine, stop. It is not comment time. Okay.

**Public Audience Provine** – When do I defend myself?

**Mayor Davalos** – Stop. If you will look at the agenda, you will see that there is a time for public comment.

**Public Audience Provine** – I am aware.

**Mayor Davalos** – I will look at all of you in the face, each and everyone of you and tell you, I am not a quitter. That question you can ask of everyone else, and they can give you that answer. I was put in this position to do the very best I could to work with the community and to provide the services that you all deserve. I do not know who is driving the train or who will hitching their wagon to it. I was elected to do a good job here. That's my promise. I will do the very best I can. These Trustee's were placed here, with your confidence to do the best that we can. Please, do not judge us harshly. Please help us out. Please have compassion, because this is a tough job. We need help, we don't need people condemning us, judging us. We need help. We'll get over these bumps. We'll get over them. We're not... Like I say, we've had three weeks in this position. Three weeks. Did you learn everything you know in three weeks? So, there is no I in this position, it is we who make our community what it is. I will not give into demands, threats or intimidation. So, I ask again let's come together, let's work together. We're not here to make enemies. I believe in my heart, I don't have enemies. I don't look at it as if I have enemies. Enemies does



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not accomplish anything. So, let's come together and let's help us to keep everyone safe. Provide services that they deserve and make Capitan prosper. Thank you.

**Trustee Menix** – Now may I speak?

**Mayor Davalos**– Yes.

**Trustee Menix** – I would like for the record to say, I received my packet at 4:45. I went to my car and emailed you immediately.

**Mayor Davalos** – Okay

**Trustee Menix** – When I did not hear a response from you, then I sent you the text, and the text said, “please check your email immediately.” Is what the text said, and you sent me a thumbs up.

**Mayor Davalos** – Yes

**Trustee Menix** – With absolutely no... but you didn't say I has said check your email. But I did email you first before I text you.

**Mayor Davalos** – Okay

**Trustee Menix** – So, I wanted to make it clear since it is on the record.

**Mayor Davalos** – Okay, but once I saw that.... Well, I'll leave it at that.

**Trustee Cleckler** – Mayor, may I respond since....

**Mayor Davalos** – Mr. Cleckler. (motions to Trustee Cleckler)

**Trustee Cleckler** – Okay, in our meeting on Thursday. I came by here to retrieve the book from GreenTree. I had not even seen the agenda or anything on your desk. Me and you were in your office discussing this.

**Mayor Davalos** – Correct.

**Trustee Cleckler** – And you said right there, you did not have on the agenda, didn't have a lot of items on it. It was a very.... Nothing, nothing was on the agenda, and I said, I will vote no if I don't have enough information to make a proper judgement. And I stand by it. We are talking about people's lives here. If somebody has a job, doesn't have a job. If we do stuff. If we spend \$100,000 we do stuff like that I need more than a moment's notice to do that. We talked about it for a while and you said, yes you would take that into consideration.

**Mayor Davalos** – And you heard my response. So, the other thing that we are looking at is, is there is remedies to items on the agenda where you can say, let's postpone it, you can vote no, you can vote yes, but there are processes that we... and we are still learning, okay. We are still learning. So, we are going to have bumps along the road, and we can work through them. We can work through them. Okay, so let's do that. Like I say, there is no room for enemies.

Okay. The next item on the agenda.

**Item #3 Public Input**

**Nita Taylor** – My name is Nita Taylor, I am a resident of Capitan. A long-term resident. Since I was in the 4<sup>th</sup> grade and that was a long time ago. Tonight, I'd like to thank you Madam Mayor and Trustees for the hard work and the decisions you have to make for the benefit of all of us. Specifically, I'd like to ask that you... In your discussion of agenda item #23, which is the purchase of the Washington Federal Bank building. I think that's clearly a hold over from the previous administration, I know it is. So, in your discussion and talk about that, I hope you include why the Village of Capitan is proposing to purchase, and spend tax payer dollars on the Washington Federal Bank Building and of what use it would be to the tax payers. Thank you.

**Mayor Davalos** – Along those lines, and I don't know if you all have noticed, we are really trying, we are posting the Trustee Packets on our web page along with the agenda. That packet is going to include everything that the Trustee's get. The information that we have available. So, sometimes that's going to

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answer a lot of questions. Maybe it will help us all. So, that's one thing that we've implemented. We are also looking into implementing, other things that will help the community to be able to maybe phone in, and there's other things possible things that we can help the community be involved in our meetings. So, like I say, we've started out by not only posting the agenda but the Trustee Packets. That's available for every one to see. What we see in our packet, is something available for you to see. If for some reason it can not be pulled out, like this one is a big one, I don't know if it will all go through. But with your input, we can find out what we need to do in order to get that information to yall.

**Attorney Zach Cook** – Mayor, your agenda says two minutes per speaker. I just want to make sure Ms. Taylor stayed within that she is very familiar with the rules. I just want to make sure to stay compliance with the Open Meetings Act, as well as the Constitution. Just if there is, I don't know if there is official time keeper or not, but there should be one.

**Administrative Assistant Wall** - There is one.

**Mayor Davalos**- We do have one, also in our policy is on our agenda. We do have policy that we will be addressing, later on.

**Attorney Zach Cook**- Okay.

**Mayor Davalos** – Okay. So, you requested that we move 13 above 4.

**Trustee Menix**- I think you should see if there is somebody else that wants to talk.

**Mayor Davalos**- Oh, I'm sorry. See, I have a lot of help here. So, thank you all for helping me out. Yes, Sir. Would you step forward please.

**Corey Crayton** – I'm Corey Crayton. I've only lived here for 15 years, and I just want to say what she was saying. There is limited space for businesses around here. I've have put in some thought into opening something. But, if the Government takes up everything that we have, then the normal citizens don't have a chance on getting anything. Because everything cost so much. Our land or a building to be built. Something like this, a person can rent. If Washing Federal is into that. So, I just wanted to keep that in your heads when you are thinking about it. Thanks.

**Mayor Davalos**- Thank you. Okay, anyone else?

**James Taylor**- I'm James Taylor. Thank you, Madam Mayor and Trustee's. I don't know that I can speak on anything outside the agenda but I have a serious concern, and that's the lack of an audit in Capitan. We've talked before the election. I think it's important to get this done and if we can't get it done, we need to get somebody that can get it done. Thank you.

**Mayor Davalos** - Is there anyone else? I appreciate all of your comments. Okay, so we have moved item #13 to between 3 and 4.

**Item #13 moved to item #4's position.**

**Item #4 Discussion/Action – Selection of a Mayor ProTem.**

Trustee Menix made a motion to appoint Brian Cleckler as Mayor ProTem. Trustee Shearer Seconded the motion. Motion passed 3 to 1.

**Mayor Davalos**- I would like to appoint...

**Trustee Menix** – No.... Go ahead, I'm sorry.

**Mayor Davalos** – Select, for my Mayor ProTem, Trustee Sherry Hair.

**Trustee Hair**- Thank you Madam Mayor for that trust.

**Trustee Menix** – I'd like to amend the motion. And I'd like to select Brian Cleckler.

**Trustee Shearer** – I will second Trustee Menix's motion.

**Attorney Zach Cook**- It was point of order. You can't make a motion. You've suggested a name so.

Trustee Menix would be a motion name Trustee Cleckler.

**Mayor Davalos**- Correct. Okay, discussion. Trustee Hair.

**(Item #4 Continued)**

**Discussion:**

**Trustee Hair-** I have nothing to add

**Mayor Davalos-** Trustee Menix?

**Trustee Menix –** No, just my motion.

**Mayor Davalos-** Trustee Cleckler.

**Trustee Cleckler-** News to me. I'm fine.

**Mayor Davalos –** Okay, so would you state your motion again please.

**Trustee Menix-** I would like to move that we select Brian Cleckler as Mayor ProTem.

**Mayor Davalos –** There is a motion to appoint Brian Cleckler as Mayor ProTem and a second. I'm sorry, you did second Bobbi?

**Trustee Shearer-** Yes, I did.

**Mayor Davalos-** Roll call please.

**Roll Call:** Trustee Hair – No, Trustee Shearer – Yes, Trustee Cleckler – Abstain, Trustee Menix – Yes / 3 to 1

**Item #5 Discussion Action – Approval of the Minutes – Regular Trustee Meeting December 14, 2023 and Regular Trustee Meeting January 16, 2024.**

Trustee Menix motioned to approve the December 14, 2023 minutes. Trustee Hair seconded the motion. All were in favor.

**Discussion:** There was no discussion on the December 14, 2023 minutes.

**Roll Call:** Trustee Hair – Yes, Trustee Cleckler – Yes, Trustee Shearer – Yes, Trustee Menix – Yes/All in favor

Trustee Hair motioned to approve the January 16, 2024 minutes. Trustee Cleckler seconded the motion. All were in favor.

**Discussion:** There was no discussion on either minutes.

**Roll Call:** Trustee Hair – Yes, Trustee Cleckler – Yes, Trustee Shearer – Yes, Trustee Menix – Yes/All in favor

**Item #6 Discussion Action – Approval of December 2023 Bills Paid.**

Trustee Hair motioned to approve the December bills paid. Trustee Menix seconded the motion. All were in favor.

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

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

**Trustee Hair –** Madam Mayor

**Mayor Davalos-** Yes ma'am.

**Trustee Hair-** I would like to state that as the Trustee's. I know that it has been a comment before, it's very difficult for the recording to pick up light voices.

**Mayor Davalos –** Yes ma'am.

**Trustee Hair-** So as we vote we need to do so with emphasis, and articulate that to that is recorded correctly.

**Mayor Davalos –** Thank you. I'm sure that the stenographer will appreciate that. Thank you for brining that to the front.

**Item #7 Discussion – Of FY 23-24 Monthly and Quarterly Budget Report**

**Trustee Shearer-** Mayor, I do have some questions about the budget report.

**Mayor Davalos –** Okay. Trustee Shearer, as we go through this, would you help us out on pointing out the page that you are referring to if you have a question on a certain page.

**Trustee Shearer –** Yes, I can try. I have the zoom up on one page and the packet up on another.

**Mayor Davalos-** Okay, best you can. We'll work with what we've got.

**Trustee Shearer –** Let me ask a question, it's my understanding that the Lodgers Tax asked for a bank statement the other day. That statement showed \$13 in the account, and our budget report shows that we should have about \$13,000 in the account. Maybe somebody could just explain. Remember we did three authorizations, but I didn't think that we brought the account down that far, and we have some stuff obligated. So, maybe somebody could speak to that.

**Finance Officer Brasher –** Angela and I together, because we had started balancing 2022, we had gone back and we figured what exact dollar amount needed to be transferred to the Lodgers Tax account. Which was around 13,000. A little more than 13,000 and that's what we deposited into that account today.

**Trustee Shearer –** But the budget report shows that the cash allocated was, 19,000.

**Finance Officer Brasher –** Right, but we've already spent money in that account.

**Trustee Shearer –** I know that. I understand that, but I'm looking at the beginning cash on hand and the revenues. The beginning cash on hand was \$19,450 revenues were 3,498 and you show 9,087 in expenditures which means a net of \$13,861.

**Finance Officer Brasher –** There was also income that was put into the Lodgers Tax bank account.

**Trustee Shearer-** I'm sorry, say that again.

**Finance Officer Brasher –** There was money being deposited into the Lodgers bank account, starting in May of 22. We figured how much money actually needed to go into the Lodgers Tax account from the beginning and as of May 22.

**Mayor Davalos-** Can I interject here just....

**Trustee Shearer-** Why is there such a wide variance between the bank account and the budget report?

**Deputy Clerk Autrey-** Whenever we first opened the bank accounts, we had to separate them for the audit. We didn't know exactly, because we didn't know about it before, how much to put in each account. So, there's Lodgers Tax, there was Fire and ones like that. So, we took close to what we could, to get it open. And then, we are having to go back in the accounts to figure exactly what needs to be in each fund.

**Mayor Davalos-** Can I interject something here Trustee Shearer? It is a question to Angela and LeAnne both. We had a meeting of the Lodgers Tax last week. Am I correct? Okay. Was this discussed and gone over with the officers of the Lodgers Tax? Okay

**Trustee Cleckler –** But then it only \$9,000, it wasn't \$13,000.

**Deputy Clerk Autrey-** Well you've got more money.

**Trustee Cleckler-** Yea, we got more money. (inaudible)

**Trustee Shearer –** Well Brian doesn't take into account the revenue. The \$9,000 doesn't take into account the revenues.

**Lodgers Tax Member T aylor –** Bobbi they just sent an email out today, and I quickly checked it on my phone. And basically, it matches up with what I thought we should have. So, we're good.

**Trustee Shearer –** But does it match the budget report?

**Mayor Davalos –** Okay, let's hold off here for a minute okay. Ummm....

**Trustee Shearer –** Mayor, my issue is that we are reviewing the budget report.

**Mayor Davalos -** Yes, I understand Bobbi.

**Trustee Shearer –** Look, Mayor I have the floor. Please don't cut me off.

**(Item #7 continued)**

**Mayor Davalos** - Go ahead.

**Trustee Shearer** – It's hard enough to do this by zoom without you cutting me off. When we are doing the budget report and I'm asking questions about whether this budget report, matches up with bank statements. One of the things I'm looking at, we started in the general fund with \$369,102 in non-restricted cash. We brought in \$367,697, if you look at the revenue page on the budget report, the best I can read that. It's very small. So, I come up with money in the bank, in revenue, in the general fund, is \$746,799 and that doesn't include the investments. But when I add up all the money that's been spent, in the items of Governing Body, Mayor, Court, City Hall, Finance, Clerk, Police Department, Animal Control, Parks and Rec and Senior Center. I come up with \$665,383 spent. Being a difference in the general fund of \$71,416. Now based on the bills we just approved, the payroll is \$88,292. So, the question that is really coming up for me is, are we at a point where we have to cash out the investment money in order to put cash in the general fund?

**Finance Officer Brasher** – We have revenue coming in every month.

**Trustee Shearer**- I've accounted for all of the revenues. You show \$367,697 in revenue in the general fund. That includes the interest income, that includes the extra GRT.

**Finance Officer Brasher** – You are saying the \$369,000?

**Trustee Shearer** - \$367,697 is that the budget revenue year to date?

**Finance Officer Brasher** – I don't have that total. I would have to look into it further.

**Trustee Shearer** – Well, it's on our packet. If you look at the revenue totals on our packet. I'm so sorry, I've lost the screen here.

**Finance Officer Brasher** – It's very small, it's hard to see.

**Trustee Shearer** – I'm having trouble being able to rely on this budget report. I can't tell what numbers are accurate and what are not. I would like... I'm going ahead and make a request to see the bank statements for all of the Villages accounts for the second quarter of the year. October, November, and December.

**Trustee Menix** – And I would like to get budget in legal size paper please, because these are very very hard to read.

**Finance Officer Brasher** – They are very hard.

**Trustee Menix** – And I make a comment on it because I can't see a lot of it.

**Mayor Davalos** – That is one thing that we are working on. I we did have that discussion with my Finance Officer. Let's try and work on this and make it to where it's easier to read.

**Trustee Shearer**- Mayor, if we could receive it in Excel, instead of printed on excel and printed to pdf. And then run through a scanner, I think it would make it much much easier for the board and reduce my questions significantly.

**Mayor Davalos** – Okay, Is that possible with that? (looking at the Finance Officer)

**Finance Officer Brasher** – Yes, it's possible.

**Trustee Menix** – Thank you.

**Mayor Davalos** – We'll work on it and try and get that done. Okay, any other questions from the Trustees? Comments?

**Trustee Cleckler** – I do have a question. So, this is discussion item only? Right?

**Mayor Davalos** – Yes

**Trustee Cleckler** – So, we are discussing this, and then on the next meeting... (inaudible) Is there any way we can have, before the next meeting, maybe a workshop or something for the Trustee's to where we can sit down with LeAnne and kind of go through and she can explain to us how it goes. Especially with the new Trustee's. So that way we can better understand the budget.

**Mayor Davalos** – Sure..



**(Item #7 continued)**

**Trustee Cleckler** – Maybe that would stream line the process during the meetings here

**Mayor Davalos** – Sure, so, does anybody have a time they could not show up? We'll look at dates and times and stuff. We'll work on it to see when you are available.

**Trustee Menix** – I will not be available next Monday through Wednesday.

**Mayor Davalos** – Okay, Trustee Hair...

**Trustee Hair** - Madam Mayor, I had made a suggestion as an appointed trustee. In the last, I believe it was in the November meeting, that we actually pursue a workshop prior to the council meetings. Again, that will follow the Open Meetings Act, and discuss the budget at that time. That will cut down, I believe, on significant time with the council.

**Mayor Davalos** – I think that is a good idea. Are we good with that? (looking around asking, all members agreed) If we can get a lot of this stuff clarified, that way when we get here we will know where we are all at. These questions can be asked and answered.

**Item #8 Discussion/Action Resolution 2024-03 Budgetary Adjustments and Revisions.**

There was no motion made on this item. The Motion died.

**Discussion:**

**Mayor Davalos** – LeAnne, do you have any statements you'd like to make on this?

**Finance Officer Brasher** – No

**Mayor Davalos** – Okay, let's go into discussion.

**Trustee Shearer** – Mayor, I'm just not comfortable with the budget adjustments or the budget report right now. With all due respect to LeAnne, I know she's doing the best job that she can with what she has. I'm not sure I can support the budget adjustments at this time. I actually thought that one of them had been brought before the board. From my recollection is the one regarding the Police Retention Fund. That already had been approved.

**Finance Officer Brasher** – The one that we had previous, was for the income that was being taken from the one law enforcement recruitment into the other, how they restructured this year, and this particular resolution is for the expenditures.

**Trustee Shearer** – So, they had you put the (inaudible) to the wrong fund and now are have you put the expenditures in the wrong fund, is that what you're saying?

**Finance Officer Brasher** – Yes, now we have to correct it.

**Trustee Shearer**- Okay, now what about the other budget adjustments? In October didn't we already move money into that line item?

**Finance Officer Brasher** – Which? Are you talking about a specific one? Or are you talking about the Retention?

**Trustee Shearer** – I'm talking about the other budget adjustment. Not the Retention adjustment. We've got two resolutions.

**Finance Officer Brasher** – Yes.

**Mayor Davalos** – Is that the one that mentions the general operating fund?

**Trustee Shearer**- Yes, didn't we move \$25,000 into that fund in October?

**Finance Officer Brasher** – We did, and unfortunately...

**Trustee Shearer** – Does that.... Go ahead.

**Finance Officer Brasher** – Unfortunately the expense with the CARR & RIGS Ingram has made the expense go up higher.

**Trustee Shearer** – Where is the adjustment, why are we not seeing the adjustment that we made in October?

(Item #8 continued)

**Finance Officer Brasher** – If you had asked me that on a previous meeting, and so that adjustment is now on the budget report. So, if you look at....

**Trustee Shearer** – Okay, show me where that is in the budget report.

**Finance Officer Brasher** – Go to the page... So, if you look on the page, general fund, general admin expenses, page 1 of 2, you'll see where it was added

**Trustee Shearer** – Let me get up to there really quick.

**Mayor Davalos** – What was the heading on that page again please?

**Finance Officer Brasher** – General Fund, General Admin. Expenses page 1 of 2.

**Trustee Shearer** – If we could get all the pages turned all the same way, it would be super. General Fun, General Admin. Page 2 of 2?

**Finance Officer Brasher** – Page 1 of 2. That's where the heading starts.

**Finance Officer Brasher**

**Trustee Cleckler**- Mayor, CARR and RIGS. Does this bring us up to date on them? We still have a (inaudible) right? Do we have next month, or the next two months, are we getting another addition that we are going to have to give more money or is this enough money to pay them out?

**Finance Officer Brasher** – They are still being retained. So, to answer you that question....

**Trustee Cleckler**- So, this is not money put there in reserve, that as they send a bill, it's just to keep them caught up now. So is that where we get another bill, then we are going to have to adjust. Where are we at on the audit? But if the audits are caught up then that means, that we don't need them anymore.

**Mayor Davalos** – Can we make a clarification here? Can you let us know what CAR RIGGS is?

**Finance Officer Brasher** – That is the CPA Accounting Firm that was approved and hired to get all the needed information for the 20-21 Audit. As far as I know, everything has been submitted to Pam. We are just waiting Pam.

**Trustee Cleckler** – It's not at the State....

**Trustee Shearer** – LeAnne go back to that page, can you point me to the line that re adjusted in October?

**Finance Officer Brasher** – So, if you look at the headings, it says approved adjustment. Okay, it says approved budget, then it says approved adjustment, and then it says adjusted budget.

**Trustee Shearer** – So, didn't we put \$25,000 into two of those line items, \$25,000 each, \$50,000 total in the two of those line items.

**Finance Officer Brasher** – So, under the professional services we put \$30,000, and the contract other we put \$15,000.

**Trustee Shearer** – So, this budget isn't showing your proposed budget amendment, to add another \$20,000 to that fund. Is that what you are saying?

**Finance Officer Brasher** – That is correct.

**Trustee Shearer** – This is the October? And you're proposing another budget adjustment to add another \$20,000 to the fund.

**Finance Officer Brasher** – Correct

**Trustee Shearer** – Okay. What is the total general admin expenses? What is that number? Is that \$281,000 to date?

**Finance Officer Brasher** – Total expenses, yes.

**Trustee Shearer**- Yes, \$281,343. For the first six months of the year.

**Finance Officer Brasher** – Yes, through December.

**Trustee Shearer** – What is the total budget for that? .

**(Item #8 continued)**

**Finance Officer Brasher** - The original total budget was, \$303,564

**Trustee Shearer** – So, we have about \$19,000 to carry us through the next 6 months?

**Finance Officer Brasher** – That's what it's basically looking like because this budget was so short, it was so shorted in the beginning.

**Trustee Shearer** – So, if we take that \$281,000 and we multiply it time two. And I think that we've paid enough to our insurance, which we could back out. It's \$16,000 over budget. Our general fund admin expenses are coming in closer to \$500,000.

**Finance Officer Brasher** – That sounds about right.

**Trustee Shearer** – The general funds admin is \$200,000 over budget right now. Projecting by the end of the year.

**Finance Officer Brasher** – That would be correct.

**Trustee Shearer** – Okay, that give me great pause adding another \$20,000 to that item. Is that expenses that has already been incurred.

**Finance Officer Brasher** – Yes.

**Trustee Shearer**- For one thing, we talked about moving money out of, I believe the attorneys fee, line items. We have like \$50,000 in attorneys' fees and we have not.... I'm having trouble seeing.. When I add up the cash, the revenues and look at this budget. I'm having trouble seeing were all the money is coming from, to the end of the year unless it's coming out of the 1.3 million dollars in investments. There is just not enough extra revenue to cover this kind of overage.

**Mayor Davalos** – LeAnne, I do have a question. You are saying that, this expenditure is for the accounting services, am I correct? So, my question is that, in order to get to where we need to be on our audits, we are needing help in order to get everything in line so we can get to where we need to get our audits documented, all of the bookkeeping that needs to be done. This firm is helping us to get to that point.

**Finance Officer Brasher** – Correct.

**Mayor Davalos** – Thank you.

**Trustee Shearer** – What I'm suggesting is, you need to cut the budget in some other area. In order to cover the money for the accountant instead of continuing to inflate the budget. The money is just not there. You are going to dip down and not make as much interest, because you are going to dip down into the investments. Next fiscal year we are going to have less than a million dollars in reserves.

**Finance Officer Brasher** - Okay, I can do that. I will definitely look into other places, that I can take that money out of and put into the line item that we need.

**Mayor Davalos** – Clerk Cavazos, is there anything that you can help to understand what we are trying to accomplish here? I know it sound like a lot of money but the question that keeps coming up and I do understand the frustration of, we keep hearing the audits, the audits, the audits and we are trying our very best to get to where we need to be. Is there any clarification that you could give to, what it is we are trying to accomplish here?

**Village Clerk Cavazos** – We have \$314,000 in the money market account that is available to us without any kind of penalty. That money market is drawing interest. That money market is available for any adjustments that we have. Not taking into account, that the way the original budget, the way it was presented, was a 0 budget with no reserves taken into account. Or any adjustments on additional return. We also received a notice from the Internal Revenue, that the 200,000 debt that we had has been taken care of, and they have made the adjustment, and are also going to be submitting an additional \$22,600 that was overpaid to them as a result of the lack of fallow up. The previous several years, since 2016. We also have contractual agreements for additional funds that we are going to receive as a result to the water sales. So, we are not taking into account, any of the possibilities as far as

**(Item #8 continued)**

additional revenues that could be coming into the Village. We are only taking into account, last quarter numbers that were presented by Trustee Shearer. And so, we are sitting there trying to run the comparisons on first quarters, compared to first quarters, compared to forth quarters. Which is a difference of apples to oranges. So, taking old numbers, not taking into account, any adjustments that we have for revenues and only taking into account expenditures. So, I think we are making assumptions here based on possibly bad numbers. Those are the things that we are working with this audit, to get adjusted, to get those numbers correct. I think that....

**Trustee Shearer** – Mayor, may I ask a question?

**Mayor Davalos**- Hang on, were you...(question directed to Clerk)

**Village Clerk Cavazos** – No, I'm done.

**Mayor Davalos** – Thank you. Yes, Trustee Shearer.

**Trustee Shearer** – Is the Clerk suggesting that we are using money from sales of water shore up the general fund?

**Village Clerk Cavazos** – No. I'm saying that's additional funds are going to be coming in. That is your assumption.

**Trustee Shearer** – Help me..... This is about the general fund.

**Village Clerk Cavazos** – Okay, I'm talking about the general fund having over \$314,000 that is available. Because not taking into account a zero balance. Those are reserves. Not taking into account, when that budget was presented, by you at the time we had to make that presentation.

**Trustee Shearer** – What is our total reserve, right now. How much to we have in investments? In addition to the main one.

**Village Clerk Cavazos** – It's a little over a million dollars.

**Trustee Shearer** – So, when you say that \$314,000 you are talking... When we look on this budget, and it says \$1.3 million dollars in investments, what you are saying is, it's really only 1 million, and you are holding that 300,000 as (inaudible), because you need it to get through the end of the year.

**Village Clerk Cavazos** – We are not taking the income from those investments that are going to be at least \$40,000 for every six-month period.

**Trustee Shearer** – That's included, \$47,000, is included in the revenue on this budget report.

**Village Clerk Cavazos** – So, we do have the ability to make some revenue adjustments there. We are not broke.

**Trustee Cleckler** – Mayor, question here.

**Mayor Davalos**- Go ahead.

**Trustee Cleckler** – You are saying on the \$40,000 coming in on that, that's interest on our investment. Right?

**Village Clerk Cavazos** – It's interest on the CD's.

**Trustee Cleckler**- But didn't we, last year at the end of the year, we decided to use the interest on the CD's, will be used for raises for the employees. The \$109,000?

**Village Clerk Cavazos** – I think those funds were made available (inaudible)

**Mayor Davalos** – I have one more question. On the accounting firm, our moneys that we are spending for trying to get us to where we need to be. My question is, will this continue year, after year, after year? Or do we see that that's a possibility that we will be spending less once we get to where we need to be? Will we be paying them less, or is this continuous, is it a contract with them? Or what is it?

**Village Clerk Cavazos** – We will only be paying them for the time that they are using to help us to accommodate the meetings for the audit. They have already started the next two years audits. Now that the information has been provided to Pam for her to do the 21 audit. Once that 21 audit is done, and we have that number that we can use for the next two years audits will be done quickly. At that point we

**(Item #8 continued)**

will only need them as we need them. Not at that large expense. I think that we need to take into account that, when I came here two years ago, I tried to form what was called a loan committee, finance committee. Trustee Shearer sat on that committee. We had an opportunity to sit down with prior a finance officer to find out what we needed to do at that particular point in time to make the corrections, so that we could go forward. Nothing was accomplished.

**Trustee Shearer** – I'd like to respond to that.

**Village Clerk Cavazos** – I would like for you to.

**Trustee Shearer** – I think that....

**Mayor Davalos** – Ms. Shearer

**Trustee Shearer**- I think that...

**Mayor Davalos** – (Hits the gavel) Ms. Shearer, you will have your turn.

**Village Clerk Cavazos** – So, what we did then was, we had to go out and see if we could find some agency to help us accomplish this. Now, prior to that time, there had been well over \$100,000 spent. Going to different individuals who did absolutely nothing to help our accounting. Since that time, we have found someone who is helping us. And we are in a position now where we can get an awful lot of things done within the next 60-90 days. That's taking into account 3 different years of audits and the feedback that we are getting back is, it took an awful lot of effort to be able to get to where we are now. These people have spent an awful lot of time trying to locate those deficiency's and where they came out of. The fact that there is so much criticism on the expenditures that we are going through, we are spending less money today that we have spent in the prior administration. Where we got absolutely nothing back from our investments.

**Mayor Davalos** – Thank you. Trustee Shearer.

**Trustee Shearer**- Mayor, I came down and met the clerk and prior finance officers and LeAnne was part of that finance committee. The budget reports were so filled with errors, that there was nothing could be done. I went through, we put it up on a big screen, we put the spread sheet up on the big screen, we looked through and we showed where this number didn't add up and this number didn't transfer over to here. Quite honestly the Finance Officer never fixed it and didn't get resolved until LeAnne started working on it.

**Mayor Davalos** – Any more comments, statements?

**Trustee Hair** – I just wanted to ask one thing Mayor, and this is directed to Trustee Shearer. Did I hear you correctly, Trustee Shearer? That the previous Financial Officer is the one who caused quite a few errors and it didn't get corrected until our current Financial Officer was in place and started working on it. Did I hear that correctly?

**Trustee Shearer** – Yes, Sherry. Our current Financial Officer LeAnne, was hired to come in, originally, even when Grace was still here. LeAnne was hired to come in and start working through the 20-21 reconciliation.

**Trustee Hair** – Okay, I just wanted conformation of that. Thank You.

**Mayor Davalos** – Thank you. Any more from the Trustee's? Okay. So, we need action on Resolution 2024-03 Budgetary Adjustments and Revisions. Do I hear a motion? I do not have a motion on this. So, we have no motion on this one.

Motion Died.



**Item #9 Discussion /Action – Resolution 2024-06 Law Enforcement Recruitment and Retention Fund Adjustment.**

Trustee Menix moved that the Resolution be brought to the table for explanation.

Trustee Menix motioned to approve the Resolution 2024-06. Trustee Cleckler seconded the motion. All in favor.

**Discussion:**

**Trustee Menix-** I'd like to bring it to a motion to bring it to the table. It's something that has already been done, and we are just bringing it forward? With the Law Enforcement, would you explain that again?

**Finance Officer Brasher –** So, when the budget was actually done it was in a different... with a Local Budget Management System. It was in a different, what they call the line item in a fund, and in the middle of our submitting and being approved and everything, they changed the whole system and they decided that they put these specific funds of the Law Enforcement and Retention into another number so they are separating it out by year 1 and year 2. Originally it was just 1, and separating into year 2.

**Trustee Menix –** So, we are just voting to separate it out. Okay, I so move.

**Trustee Cleckler –** I second it.

**Mayor Davalos-** So I have a motion to, approve...

**Trustee Menix –** So, just approve this one, since it's just a move.

**Mayor Davalos-** Okay, thank you. I have a motion and a second. Any other discussion? Roll call Please.

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

**Item #10 Discussion/Action – Approve Mayoral Appointment of Joseph Albert Cavazos (AI) as the Clerk for the Village of Capitan.**

Trustee Cleckler motioned to terminate Joseph Albert Cavazos as Clerk for the Village of Capitan under the State Statute 3-11-6. Trustee Shearer seconded the motion. All in favor.

**Mayor Davalos –** I will also add to the many duties that he has, that I will also be asking him to take on as the compliance officer. Do I have a motion?

**Trustee Hair –** Madam Mayor, I move to this table for discussion.

**Trustee Cleckler –** Question. Can we.. We can't discuss employees during open meetings. Is that correct?

**Mayor Davalos –** We're not discussing employees. We are talking about appointments.

**Trustee Cleckler –** Can we, I was under the impression, I may be wrong, but we can't discuss personnel in an open meeting.

**Mayor Davalos –** Attorney Cook.

**Attorney Zach Cook –** Mayor, the statute requires that you bring a name to board for the approval of the appointed position. So, I would not want to get into anything. The issue before the board is, if they are going to accept your recommended appointment?

**Mayor Davalos –** So, I do have a motion?

**Trustee Hair –** Madam Mayor, if I may go in and amend my motion.

**Mayor Davalos –** Yes, ma'am.

**Trustee Hair –** I motion that we approve your appointee, for the position of Village Clerk.

**Trustee Cleckler –** Madam Mayor, I move to amend that motion. To immediate termination. Due to State Statute Section 3-11-6 Sub NMSA Subsection D.

**Mayor Davalos –** Okay, do you have a copy of that statute?

**(Item #10 Continued)**

**Trustee Shearer-** Mayor, I want to second Trustee Cleckler's motion.

**Mayor Davalos-** If you would read it please. For the record.

**Trustee Cleckler** – The Government body may discharge an appointed official or an employee with a majority vote of the members of the Governing Body.

**Mayor Davalos** – Okay, so we had a motion to bring this to the floor. We had the first amendment, I'm sorry was... Call it a correction and then you come up with a second one. Okay. Deputy Clerk, give me direction here.

**Deputy Clerk Autrey** – I would refer to our lawyer because I'm not sure that you can bring it up... It's not on the agenda, but I may be wrong.

**Attorney Zach Cook** – Mayor, what is on the agenda is. Approve Mayoral appointment of Joseph Albert Cavazos as Clerk at the Village of Capitan. That's done pursuant to the Section 3-11-6 of the New Mexico Statutes. 3-11-6 also contains a provision that Trustee Cleckler referred to, it states the governing body may discharge an appointment, that an appointed official or employee by majority of all of the members of the governing body.

**Mayor Davalos** – At this point, he is not appointed. Can we discharge him if he is not yet been appointed? That's my question.

**Attorney Zach Cook** – Appointed offices continue until they are filled by somebody else. So, officially, he is your Clerk, Randy Spear your Police Chief, and LeAnne is your Finance Officer.

**Mayor Davalos** – Okay, so he continues until the new appointment comes in. Okay. So, would you state your motion.

**Deputy Clerk Autrey** – He made it, and Bobbi seconded.

**Mayor Davalos** – Oh, she seconded it. Any discussion? (pause) Roll Call.

**Roll Call:** – Trustee Cleckler – Yes, Trustee Menix – Yes, Trustee Hair – No, Trustee Shearer – Yes / All in favor.

**Mayor Davalos** – At this point the appointment was voted out. Once again attorney, if I am correct, the positions will continue on until we can find someone to fill that position.

**Attorney Zach Cook** – Mayor, based on that section of law referred by Trustee Cleckler is alternative motion. That the office of Clerk is vacated. So, you can bring back another name at the next meeting.

**Mayor Davalos** – Okay. Thank you.

**Item #11 Discussion/Action – Approve Mayoral Appointment of LeAnne Brasher as the Finance Officer for the Village of Capitan.**

Trustee Shearer motioned to approve the appointment of LeAnne Brasher as the Finance Officer for the Village of Capitan. Trustee Menix seconded the motion. All in favor.

**Discussion:**

**Trustee Shearer** – I'm happy to support the reappointment of LeAnne.

**Mayor Davalos-** Thank you. Roll Call please.

**Roll Call:** Trustee Shearer – Yes, Trustee Hair – Yes, Trustee Cleckler – Yes, Trustee Menix – Yes/All in favor

**Item #12 Discussion/Action – Approve Mayoral Appointment of Phillip Wall as the Chief of Police for the Village of Capitan.**

**Trustee Hair** – Madam Mayor, I move that we approve officer Wall as our new Chief of Police.

**Mayor Davalos** – Do I have a second. (pause and no response) There will be no discussion or action on this.

Motion Died

**Mayor Davalos**- At this time we will do the Swearing in of our Finance Officer, LeAnne Brasher.

**Item #13 Action – Swearing in of New Appointments if Approved.**

**Judge Bradley** - Raise your right hand and repeat after me.

(The oath was stated by Judge Bradley, and repeated by LeAnne Brasher.)

**Mayor Davalos** – Thank you Judge Bradley.

**Item #14 Discussion/Action – Appointment of Green Tree Board Representative – Mayor Davalos**

Trustee Cleckler motioned to appoint Mayor Davalos to be the GreenTree's Board of Representative.

Trustee Menix seconded the motion. All were in favor.

**Mayor Davalos** – In the past, it has been that he Mayor attend these meetings and represent the Village.

**Trustee Cleckler** – Mayor, I move that you are appointed to that position.

**Trustee Menix** – I second that.

**Mayor Davalos**- I have a motion and a second for approval. Do we have discussion? Roll call please.

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

**Item #15 Discussion/Action – Resolution 2024-01 Governing Body Meetings and Public Notice.**

Trustee Menix motioned to postpone the action of the Resolution 2024-01. Trustee Cleckler seconded the motion. All in favor.

**Trustee Shearer** – Mayor, let me scroll down. Can you look at paragraph 4?

**Mayor Davalos** – In the resolution itself?

**Trustee Shearer** – Yes. It looks as though some guidance from the Attorney General's office or something was inserted into the Resolution. It doesn't read correctly. It's probably been in here for several years.

**Mayor Davalos** – So, you're saying, it no longer applies, is that what I understand?

**Trustee Shearer** – No, I just don't think that it's properly part of the resolution. Looks like an email, that's been cut and pasted into the Resolution or something.

**Mayor Davalos** – Okay.

**Trustee Shearer** – (inaudible) I don't want to delay our Open Meetings resolution, but I think that we should have our Village attorney look at that paragraph and rewrite it.

**Mayor Davalos**- So, am I correct? That we would like to postpone this action to a later date after we have this reviewed?

**Trustee Shearer** – Can Zach give us an opinion on that? Do we pass it or amend it or?

**Trustee Menix** – May I ask this? Were you given it to read? Were you given either one of these resolutions to read?

**Attorney Zach Cook** – No.

**Trustee Menix** – Okay, I don't think we should act on either one until he gets an option to read them.

**Attorney Zach Cook** – It sounds like it's a drafting issue. Ms. Shearer, is that correct?

**(Item #15 Continued)**

**Trustee Shearer** – Yes, it says, additionally we are assuming the public body (inaudible) would also be working remotely. Otherwise the staff would have to be at a physical location. That's not resolution language.

**Mayor Davalos** – Okay.

**Trustee Shearer** – We probably have been carrying this since 2020 (inaudible)

**Attorney Zach Cook** – Mayor, if you want to postpone this, I'll look at it and see if I could just edit out what she's referring to.

**Trustee Menix** – Do I need to wait until the next one, to ask about the next one?

**Mayor Davalos** – Yes. Do I have a motion to postpone the action on the resolution 2024-01?

**Trustee Menix** – I so move

**Trustee Cleckler** – I second.

**Roll Call:** Trustee Shearer -Yes, Trustee Hair – Yes, Trustee Cleckler– Yes, Trustee Menix – Yes/All in favor.

**Item #16 Discussion/Action – Resolution 2024-02 Public Input Policy.**

Trustee Menix motioned to postpone the action and send it to the Attorney. Trustee Cleckler seconded the motion. All in favor.

**Trustee Menix** – I would like to move that we send this to the Attorney to be reviewed, and then brought back to the board.

**Mayor Davalos** – So, are you making a motion to postpone it?

**Trustee Menix** – Yes

**Mayor Davalos**- Thank you. I have a motion to postpone.

**Trustee Cleckler** – I second it.

**Trustee Shearer**- Mayor, I have a comment.

**Mayor Davalos** – Trustee Shearer, there has been a motion to postpone, do you still want to make a comment on that?

**Trustee Shearer** – Yes, I do.

**Mayor Davalos** – Trustee Shearer, hang on. Attorney Cook has something.

**Attorney Zach Cook** – You already had a second to the motion and opened up for discussion.

**Trustee Menix** – Brian seconded it.

**Mayor Davalos** – Okay, Also in our last training. We did understand that if discussion began before the second motion, that it continued on.

**Trustee Shearer** – Mayor, at that same training we went to, the advice that were given that if we live in a community of less than 5,000 people, you really should just let the audience talk. You should have an active discussion with the people who have taken their time who have come down to the council meeting and participate. I was up here in Santa Fe during COVID and that's when they really got strict on these two minutes to speak and you have to go to the podium. I'm not in favor of it. It really restricted public comment. I feel like the public has the right to come and speak. Quite honestly, I wouldn't want that for every item, if somebody in the audience was on a decision or if somebody in the audience was in support. So, I'm not going to be supporting the public input policy.

**Mayor Davalos** – Okay, so, I do have a question for you. On the time limit is where you object, or you would like to see change to, there is no time limit.

**Trustee Shearer** – For starters. Yea

**Mayor Davalos**- Okay. So...

**Trustee Menix-** Also, I'm not comfortable asking people their addresses.

**Mayor Davalos** – I understand, I'm sorry. I feel the same way. We will get that changed. I did address that and I'm sorry I didn't get that changed. No, I don't believe that people need to give their addresses. Their name is for the reason, when we do the transcription on the minutes. At least have a name to put to the voice. I have a motion for this to be postponed and a second. So, this one will be postponed.

**Roll Call:** Trustee Shearer – Yes, Trustee Hair – Yes, Trustee Cleckler – Yes, Trustee Menix – Yes/All in favor

**Item #17 Presentation – Lincoln County Hazard Mitigation Plan – Kevin Kennedy**

**Fire Chief Kevin Kennedy** – Good evening. My name is Keven Kennedy. If you don't know me. But I am the Emergency Manager of the Village of Capitan. Tonight, we are going to discuss the Lincoln County Multi Jurisdiction Hazard Mitigation Program. It's a plan that came into effect in about 2008 when the Federal Government said that, you have to have this plan in order to get federal money. So, in 2012, the County

came in and said, let's all get together and make this plan. That's what they did. From the additional plan in 2012 which went into effect in 2013, every five years you have to update this plan. It was updated in 2018, now it's time to do it again. The timeline that we had for this process. We started this back in March of last year. The company that got the grant award to do this plan is an environmental company out of Albuquerque. She is actually on zoom listening. We started back in April of last year. We are at the point now, the governing body of the Village of Capitan used to adopt this plan in order to send this to FEMA next month and get them to approve it. Then we can start getting our federal money again. All this is, is a continuation of a plan which was updated. Did anybody look at the plan?

**Trustee Menix** – I thumbed through it.

**Fire Chief Kennedy**- Okay. All of this has to do with natural mitigation hazards. Wild land fire, flooding, wind events, severe thunderstorms, severe winter storms, drought and damns. Obviously, we don't have a damn around here so, we didn't have any mitigation actions to go against that subject. But, we did put in each individual village and town in Lincoln County. Put in their actions that their actions to mitigate their problems associated with these hazards. So, that is what the plan is. We've got all of those listed in the plan. If you looked at it you would know what the actions are. These actions don't have to be done but, mitigation is lessening the potential problems of hazards. There are things like, on the west side of town, you can go the forest service and get some of that brush on the west side of town. Not on the Village, but on the other side, to thin it out. Get it to where if a fire started out there, it would be a natural break to keep it from coming into the Village. Out there in the subdivision, there is a lot of trash. As far as trees out there that have grown to the ground, if you get fire, it's going to light them up. And a lot of those trees are close to houses, well it's going to light them up. The strategy there is, develop ordinances to have people clean up their land a little bit. You remember 20 years ago, they did that in Ruidoso. I thought the hanging ropes were coming out. You know, you don't tell me what to do on my land and stuff like that. It's going to be a hard issue to really accomplish. With you all's direction, we can do this. There are grants out there to help the people to mitigate the problems on their property. So, all I need you to do tonight, is adopt this program. Which is the next agenda item. Thank you.

**Mayor Davalos** – I do have one comment, question. From what you said, I do understand that, money is out there available for a private land owner to try and get help in order to get their property where if there is a hazard of fire.

**Fire Chief Kennedy** – I just received a thing from the Association of County's today. There is a grant out there that goes to a certain amount that will assist the land owner with a 10% match. Say if it cost \$10,000 to do it. For a \$1,000, they can get that done. There is a lot of stipulations, this is federal money, so the stipulations are big. It's do able.

**Mayor Davalos** – Thank you.



**Fire Chief Kennedy-** Thank you.

**Item #18 Discussion/Action – Resolution 2024-05 Approval of Lincoln County Hazard Mitigation Plan.**

Trustee Menix made the motion to approve the resolution. Trustee Hair seconded the motion. All approved.

**Discussion:**

**Trustee Cleckler** – I have a question for Kevin. You said the next meeting it would be on here again. But we are approving this now.

**Fire Chief Kennedy** – No.

**Trustee Menix** – No, he said the next item.

**Trustee Cleckler** – Okay, I miss understood.

**Roll Call:** Trustee Shearer– Yes, Trustee Hair– Yes, Trustee Cleckler– Yes, Trustee Menix – Yes/All in favor

**Item #19 Discussion/Action – Resolution 2024-04 Grant Submission to Cultural Properties Restoration Fund “Train Depot”.**

Trustee Menix made the motion to approve the resolution. Trustee Cleckler seconded the motion. All in favor.

**Discussion:**

**Fire Chief Kennedy** – It’s pretty self-explanatory. We are trying to get a grant for \$250,000 to finish restoring the Train Depot and let it supply they community with what ever we are supposed to do with it.

**Trustee Menix** – Is the grant already written?

**Fire Chief Kennedy-** We are writing it now. It’s due the first of February.

**Trustee Menix** – But it’s not complete, and you have to submit it by the first of February.

**Fire Chief Kennedy-** Correct.

**Trustee Menix-** Okay, if I approve this, can you get me a copy of the grant as soon as possible. I just think that we should have had a copy of the grant to look at. I mean, I think the Train Depot should be done but we want to be informed. That is all.

**Fire Chief Kennedy-** Okay.

**Trustee Menix-** I would just like to see what the grant entails, what we are doing. Because I know there’s been issues in the past. So, I think if we have something so that we can say, where are you at now. Do you see what I’m saying?

**Fire Chief Kennedy-** That’s fine. To get this grant submitted (inaudible – two people talking at once) As soon as it is done, I will get you a copy of it.

**Trustee Menix** – I move that we approve.

**Trustee Cleckler** – I second it.

**Trustee Shearer** – Mayor, I have a question. It says Train Depot and surrounding area, is this all going to go to the Train Depot? Or is part of it going to the old Fire Station?

**Fire Chief Kennedy** – No, the old Fire Station is not in the picture as far as this grant goes. But we are planning, on the north side of it, taking that picknick area out and put parking in there and parking on the south side as well. Probably paving the road around the little park.

**Trustee Shearer** – Okay, thank you.

**Mayor Davalos-** I did have a motion and a second, am I correct. Okay, no further discussion.

**Roll Call:** Trustee Shearer – Yes, Trustee Hair– Yes, Trustee Cleckler– Yes, Trustee Menix- Yes / All in favor.

**Item #20 Discussion/Action – Approval of Bid for Alamo Auto Supply for Equipment on the New Water Trucks – Water Department – Steve Osborn.**

Trustee Cleckler moved to approve the bid. Trustee Menix seconded it. All were in favor.

**Water Department Osborn** – We had purchased a couple trucks at the end of last year. They were available, and they were pretty well outfitted. There are some additional items that were not on there. If we would have waited for them it would have been a year to year and a half to get it. We are trying to get a light bar, a light for safety at night, bed liner to prolong the life of the bed, running boards because it's about 12' tall. Anyways, that's what we are looking for.

**Mayor Davalos** – Thank you. Any other discussion, questions?

**Trustee Cleckler** – Is this in the budget or is it something extra?

**Finance Officer Brasher** – This is something extra but, Steve and I went over it earlier today and with the cost of it, we can take part of it from the water-fund, under repairs and maintenance and then part of it out of the sewer- other operating.

**Mayor Davalos**- Any other discussion?

**Trustee Cleckler**- I move that we approve.

**Trustee Menix**- I second it.

**Mayor Davalos**- Okay. Roll call please.

**Roll Call:** Trustee Shearer– Yes, Trustee Hair – Yes, Trustee Cleckler– Yes, Trustee Menix- Yes / All in favor.

**Item #21 Discussion – Substitution of Equipment that was Previously Approved, for the Street Department.**

**Street Department LaMay** – This is on the broom attachment that was previously approved for the front end of the backhoe. We have come into the opportunity to get a self-propelled broom for the same price. That way we don't take up our backhoe.

**Mayor Davalos** – Thank you. Any discussion, questions?

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

**Item #22 Discussion – Re Assignment of Village Administration Vehicle to Law Enforcement Fleet.**

**Deputy Clerk Autrey**- The white police car, the one that was the back. The village paid for it, and they needed another one because two of their vehicles were going down and one had been wrecked. So, we wanted to transfer that one to the PD for them to use.

**Trustee Cleckler**- That's the car...

**Deputy Clerk Autrey**- No, the white one. It's the white Ford Explorer that we had previously bought. We are needing to transfer it to them.

**Trustee Cleckler**- I have a question. So, how does that work? What funds purchased that? How does that go?

**Finance Officer Brasher** – It was approved, and purchased through the general fund. The money was actually taken from the budget of the Animal Control. She did not get that vehicle therefore we used those funds to purchase the admin car.

**Trustee Cleckler** – It's actually already used as a police department fund already so we should be okay.

**Finance Officer Brasher**- Yes

**Trustee Cleckler** – Okay. I just didn't want to get mixed up on the budget stuff. (inaudible)

**Item #23 Discussion – Purchase of the Washington Federal Bank Building.**

**Mayor Davalos** – I am going to try and do the best we can, with help from Deputy Clerk to address this. This was a presentation that was prepared by the Clerk. So, I will do the best I can. From what I

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understand, this has been an ongoing task. Looking into seeing if it was available. A lot of discussion went on into this. When we first contacted them, just to see what the possibilities were of the purchase, the purchase price, so on and so forth. I do not have the numbers in front of me. Deputy Clerk, did you have that information?

**Deputy Clerk Autrey-** It is \$165,000 with a deposit of \$8,000 and then, they would rent the ATM each month for \$500.

**Mayor Davalos** – I can try and go back and give a little more history on that. From what I understand, the appraisal price came in over \$280,000. \$280,000 was the appraisal price on the building itself. What happened then we went in and asked what the bottom line that they would consider. I believe it came in at \$178,000 was where they set a bottom line. After a lot of discussion back and forth, this happened with the last administration, they asked for a proposal. Tell us what you will offer. Last administration came in and offered the \$165,000. At that time, they did except that offer with the agreement that the Village would agree to lease back the area and keep the ATM up and going. They would in turn pay us the rental space to keep that ATM going. With what I found out, the ATM will be maintained, the maintenance and filling of it, will be the responsibly of Washing Federal Bank. The Village would just be renting the space. They would take care of everything else, as far as filling with the money. It's locked now, I haven't gotten a chance to look at it, but the persons that have access is the company Loomis. That is who services the ATM so, we would be renting that space but we would not have any responsibility of keeping it up, or any kind of transactions. What I'm looking at is close to January 4<sup>th</sup> for Washington Federal Bank. They accepted our proposal, with that said, if we would review this. It is a proposal and a lease back. This is what they are proposing, they wanted us to look at it, see if we agreed with it, if we had some changes we would like to propose, and get back with them. They are looking at 30 days from expiration. They did say an \$8,000 deposit, and I think that was up for discussion there.

**Trustee Cleckler** – So, we have not made a deposit.

**Mayor Davalos** – No, it's still in the works. Okay, now I did have a question. LeAnne or Deputy Clerk, where would the funding come from. Either one of you worked on that?

**Finance Officer Brasher** – When I was talking with Al earlier today, we were talking about possibly from the public funds money market that has little over \$314,000 in it. Which can be used at anytime with out penalty. That's what him and I were talking about.

**Trustee Shearer** – LeAnne, is that the same money that Al was talking about using to fund the general fund for the rest of the year?

**Finance Officer Brasher** – Yes

**Trustee Shearer** – I don't know how many times you can use the same money.

**Trustee Menix-** My personal opinion is... sorry

**Trustee Shearer** – Mayor... I'm sorry this is just hard... Tell me what the purpose of the building was.

**Mayor Davalos** – That's what happens when people jump in. I was not able to finish my comments on it. Okay. We did look into things that we could possibly use it for. We had the Water Department take a look at it. He gave his comments on it. We did look at a place where we could upgrade our Police Department. If any of you know, the Police Department is very tight. That would be an option. And looking forward. Are there any services we could provide to the community with a place to do it with? We are looking at having someone there that, people can walk in and actually speak to someone. There is no one there. If you go to the Police Department the officers are always gone and there's things going on. So, we want to try and get more public access to the Police Department. You can have a place to come in and do reports. One of the things I have seen at the Police Department, is that if they are interviewing someone, and I don't know if you are familiar with the Police Department, you walk into the Police Department, there is a counter and behind it is a table. So, place yourself in the position of

(Item #23 Continued)

the person that is doing a report, an interview anything like that. Someone else walks in and there you are. No privacy, that the officers can take advantage of. This would be one of the things that I could see at the new building. The evidence locker is a room with a locked door. We see that the bank has a safe area, that would be a really good place to secure evidence. And those of us that has been in law enforcement knows how important it is, securing evidence is. That's one of the major things that Police Departments, if they do not have that safe place, that could be something that we could get in trouble with. As far as keeping our evidence safe. The police department down here has two offices. One office for the Chief and the other has three desks the area in there is probably the size of a very small bedroom, and you have three officers in there. Once again, I go back to interviews, doing reports, there is no privacy if you went to go in there and try and receive some type of services on that. That's what I see from the Law Enforcement stand point. I would like to see something more secure. So, I believe...

**Trustee Cleckler** – So where does the money come from to remodel that building too? Is that (inaudible) fund also?

**Finance Officer Brasher** – That was not discussed with me.

**Trustee Cleckler** – We are dropping our \$300,000 to...

**Deputy Clerk Autrey**- If you were doing the PD. I'd have to look at it. That's my opinion.

**Trustee Hair** – Madam Mayor, one of the things that I would suggest doing, for further consideration, we have two new Trustees on the board. I would suggest, maybe do a tour of the current police department and a tour of the Washington Federal Building. See what differences they are. The other thing that might be looked at, maybe a brief proposal from someone that a new building would cost us. If we had to pay for it. (inaudible)

**Mayor Davalos** – That is available. That is part of what is in this letter, that they would open it up for a tour if we wanted to look at it. I think that would be a good thing to do before making a final decision. Therefore, that is why we put it down for discussion, because we wanted to make sure what it looked like. The possibilities we can go through and point what this room.....

**Trustee Cleckler**- Madam Mayor, I think it should just be tabled. The former Clerk said, that in 60-90 days, we will have the audits should be completed. By then we will know where we are financially. I think that it is a good buy. But to use our cash funds to buy this and then three months later we have to use cash again to get us out to the end of the year. If we have the audits done, then we know exactly where we are. I think it's a good buy. I'm just worried about money.

**Trustee Menix** – I stand there as well. We do not need to be spending any money until we have audits completely caught up. The bottom line, because it seems like every time I look at something, and something comes, we are overspending with what we really have without getting into reserves. At this point in time we don't need to be doing that, we are overbudget. If you looked at the 2020 audit, we were way over budget in 2020. I know it's not a completed audit, and now we've got to wait on 21 to see if we are way over budget again to 22 and 23. I just don't think we need to be spending money right now. Unless it's a necessity or an emergency. There is a difference in that but, I understand that they are dealing with those situations. I don't want them to have to. I just don't know that this is the proper time to just be jumping into a purchase without knowing what the bottom line is, financially. I think we need to be financially responsible.

**Mayor Davalos** – Is there any more discussion on this?

**Trustee Shearer** – Mayor, I have to (inaudible) of the two trustees. I don't think it's prudent for us to go buy that building right now, after looking at the budget. I think if we sit down and we have a real serious budget workshop, you will come to the same conclusion.

**Mayor Davalos** – I think that a wise idea. Once we have a budget workshop and we all understand where the money is, how it's being spent, and get really familiar with the finances. I think we would be

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able to make a better-informed decision. We'll look into doing that and the only main concern, and I don't know if it's even out there, but is there a timeline to get this done. I don't know if they've even mentioned that and do they have other options. There some information there I'm not totally sure of. So, I think that the budget workshop we will find out where we are at and where our money is, and then we can look further into items like this. I think that's a good idea. We will make contact with all of the trustees and see when we can set up a budget workshop.

**Trustee Menix-** Sounds good.

**Mayor Davalos** – Do I have a motion to adjourn?

**Trustee Menix-** I move that we adjourn.

**Trustee Hair-** I'll second that motion.

**Adjournment:**

Trustee Menix motioned to adjourn. Trustee Hair seconded the motion. All in favor.

Meeting adjourned at 8:04 PM.

  
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**Brian Cleckler, Mayor ProTem, Village of Capitan**

**Attest:**

  
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**Angela Autrey, Village Clerk**

