

**TOWN OF DE BEQUE
BOARD OF TRUSTEES
PUBLIC MEETING
PUBLIC HEARING
APRIL 26, 2022**

The Public Hearing & Regular Meetings of the Board of Trustees was held on April 26, 2022, at 6:00 p.m. in the Community Center, 381 Minter Avenue, De Beque, Colorado. Present were the following:

Mayor: Shanelle Hansen

Trustees:	Cindy Farris	Walter Wood	Judy Lake
	Sarah Hambrick	Vernon Bruse	Lisa Lippoldt

Outgoing Trustee: Dave Jackson

Absent: Trustee Sarah Hambrick

Staff Present: Care' McInnis, Lori Malsbury, Lisa Rogers, Bob Dalley, Davis Farrar, Bruce Joss, Timothy Graves, Christopher McAnany,

Also Present: David McConaughy and Christine Gazda with Garfield Hecht, Courtney Tschanz, Gerald and Lorraine Dutton, Dan Savoca, Derek Hansen, Bryan Lamaestra, Russell Klase III, John Haas, Tarna Jones, Tim Graves and Spouse, and other members of the public

CALL TO ORDER:

The meeting was called to order at 6:04 p.m. by Mayor Shanelle Hansen.

The Pledge of Allegiance was recited.

ROLL CALL:

Roll call was taken, and a quorum was present, with Trustee Hambrick being absent.

PRESENTATION: Mesa County Department of Human Services-Jill Calvert

Jill Calvert (Executive Director of Human Services) and members of her staff provided a synopsis of the various programs available to the community. There are several areas in which they provide services for such as career development, public assistance, child welfare and adult welfare. They provided flyers for the various services, which are located at Town Hall.

ADDITIONS, DELETIONS OR CORRECTIONS TO THE AGENDA

Correction for item M-2 shall be known as Ordinance No. 520 and 2-A shall be known as Resolution No. 2022-07.

Ms. McInnis explained there would be a format change with a portion of tonight's meeting. A Consent Agenda is intended to allow the Board to spend its time on more complex items. These items are generally perceived as non-controversial and can be approved by a single motion. The

public or the Board members may ask that an item be removed from the Consent Agenda for individual consideration.

ITEMS FOR PUBLIC PARTICIPATING IN CONFERENCE – NOT ON THE AGENDA

Todd Barton, 2361 46 ½ Road. De Beque, CO. Mr. Barton, stated he has spoken to the Board previously, concerning the water shares from the Schlumberger annexation. It is his understanding that the landowner receives two (2) shares per acre. Mr. Barton asked the Board to consider returning the 62 water shares belonging to his parcel. The water is needed, as he intended to use the land as farmland. Mr. Barton stated that 107 shares have already been transferred other parties. Mr. Barton stated his shares were to be transferred back-to-back to him in February 2021, but it was stopped by the Town.

John Haas stated his wife had previously attended a Planning meeting, are purchasing 46750 Road would like to put a primitive camp site on the property. They are in the process of organizing a presentation to submit to Mesa County to obtain a conditional use permit. This project will be based on primitive camp site rules. Mr. Haas is asking the Town for a letter of recommendation. Mayor Hansen explained he may want to be added to the next joint Board/Planning meeting and Ms. McInnis will reach out directly to Mr. Haas with the date.

Russell Klase, 424 Minter Ave, De Beque, CO, owner of Reckless Roadhouse. Mr. Klase stated that the Reckless Roadhouse would be open for business on Friday, April 29, 2022, and how appreciative he is of the Town's support.

CONSENT AGENDA

APPROVAL OF MINUTES (regular meeting 3/22/22 and special 4/7/22), **BILLS AND EXPENDITURES** (financial statements) **and ENGAGEMENT FOR LEGAL SERVICES** (Timothy Graves-Municipal Court Prosecutor and Dufford Waldeck-Chris McAnany-Town Attorney)

Motion:

Trustee Farris motion to approve regular minutes of March 22, 2022, with corrections, the special meeting minutes from April 7, 2022, as amended, financial statements and engagement for legal services.

Motion carried 5-0

PRESENTATION: OUTGOING BOARD MEMBERS AND CONSULTANTS

Mayor Hansen thanked the outgoing consultants, Trustees Jackson and Summer Black-Greening, for their service. Plaques were presented, unfortunately Trustee Black-Greening was unable to attend. David McConaughy was presented a plaque for his long-time service to the Town of De Beque. Ed Sands, not in attendance, was also recognized for his years of service. The plaque will be mailed to Mr. Sands.

Judge Joss administrated oaths of office and swearing in of Trustees Lisa Lippoldt, Vernon Bruse and Walter Wood. Judge Joss also swore in Mayor Hansen. Trustee Hambrick was unable to make it and will be sworn in at the next meeting.

SELECTION, APPOINTMENT AND OATH OF MAYOR PRO TEM BY THE BOARD OF TRUSTEES

Motion:

Trustee Lake made a motion to appoint Trustee Farris as Mayor Pro Tem
Trustee Lippoldt seconded
Motion carried 6-0

Trustee Farris was sworn in as Mayor Pro Tem by Judge Joss

APPOINTMENT AND ADMINISTRATION OF OATH OF TOWN CONSULTANTS:

Town Attorney, Chris McAnany with Dufford Waldeck, Municipal Prosecutor, Timothy Graves and Mayor sworn in by Judge Joss. Judge Bruce Joss was sworn in as Presiding Municipal Judge by Mayor Hansen.

DISCUSSION AND ACTION REGARDING RESOLUTION NO. 2022-05: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF DE BEQUE RATIFYING THE APPOINTMENT OF LISA LIPPOLDT AND KYLE CLUFF TO THE DE BEQUE PLANNING COMMISSION

Motion:

Trustee Farris made a motion to approve Resolution No. 2202-05.
Trustee Wood second
Motion carried 6-0

Trustee Lippoldt sworn in by Mayor Hansen, Trustee Cluff was sworn in previously.

BOARD COMMENTS:

Trustee Wood would like to know when chip and seal for roads would start. Ms. McInnis stated the plant would need to be open and weather needed to remain dry for a certain period of time. Trustee Wood wanted to know who was responsible to maintain the bridge coming into town. Trustee Lippoldt stated it was CDOT and has already made a call to them concerning its condition.

Trustee Farris welcomed the new consultants and board members.

Mayor Hansen welcomed new Town Clerk, Lori Malsbury, along with the new Board members, whom she appreciates them stepping up to the plate. Mayor Hansen welcomed Reckless Roadhouse. Trustee Wood asked Mayor Hansen if the planter boxes would be maintained this year or removed, she stated it has not been discussed yet.

CALL BOARD OF TRUSTEES PUBLIC HEARING TO ORDER:

DISCUSSION AND ACTION CONCERNING RESOLUTION NO. 2202-07: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF DE BEQUE, APPROVING A BOUTIQUE HOTEL AT 364 MINTER AVENUE #A WITH CONDITIONS

Mayor Hansen called public hearing to order at 7:04 p.m.

Mr. McConaughy with Garfield Hecht explained standard procedure as Mr. Davis the Town Planner, would present the staff report, then the applicant may make a presentation. Cautioned Board that they may ask questions, but do not express any opinions on how they may vote. Then the public hearing will be opened for any comments. Ms. Malsbury verified that proper notification and mailings were submitted. Mr. Davis explained the outline of planned boutique hotel, which was approved by the Planning Commission with conditions, on April 12, 2022. This is a special use application which requires a public hearing. Applicants are the current owners, Rodney and Billie Milham.

The Board must review criteria, including but not limited to the compatibility of the architectural character of the neighborhood and desirability of proposed use. Planning Board did not see any potential environmental adverse effects, as it is a currently developed site, and conforms to engineer and design standards. Under review agency comments, the Town Marshall expressed he would like to short term occupancy. Another agency review comment was whether there would be additional tap fees. Mr. Davis stated it would be reviewed, but the property was already established for commercial use. Mr. Davis proceeded to read final conditions of approval. Applicant Billie Milham advised that she didn't know anything about the proposed project and deferred to Gerald and Lorraine Dutton for the presentation of evidence. The Duttons spoke to the Board stating that they have previous experience renovating and the running similar establishments. The Duttons advised that they could provide information regarding their other venues directly to Ms. McInnis.

Courtney Tschanz reinforced that the Duttons have currently manage similar business, which have five-star ratings. Ms. Tschanz believes there is a need in the area for a place for family and friends to stay. Russell Klase with Reckless Roadhouse stated he is in support of the project as it may encourage more traffic to come through De Beque.

Bryan Lamaestra said the Board should consider approval. That this would be a good payoff and small launch pad, as it's only a three-room hotel and would be a good way to bring in for De Beque. That it is a good way to bring new people into the town, while keeping the small-town atmosphere.

Public hearing adjourned at 7:39 p.m.

Mayor Hansen asked if there were any more questions or concerns.

Motion:

Trustee Wood made a motion to approve Resolution No. 2202-07.

Trustee Lippoldt seconded

Motion carried 6-0

RESUME PUBLIC MEETING WITH TOWN MANAGER REPORT:

Ms. McInnis welcomed new and returning Trustees and asked if they would fill out the preferred contact list.

County Commissioners will be in De Beque to give a presentation on June 6th, beginning at 4:30p.m.

Ms. McInnis stated that Stephanie Tuin is on a beach somewhere, was very helpful during the time she was here.

Ms. McInnis said that the Town is still advertising for a Town Treasurer, Mosquito tech and Bus driver. Mayer Hansen wanted to know a process we are at with hiring a Public Works director. Ms. McInnis stated at this time the Town has not posted it yet as the logistics of the position are still being worked out, as well as the functionality of the department.

Ms. McInnis relayed to the Board that the Town has 92 banker's boxes that need to be destroyed. The Town was unable to obtain a burn permit for destruction. Bids for a third party to shred have been from \$1,200 up to \$3,400.

The Town's lease with Troy (Doc) Hansen, for off-street parking at 417 Curtis, has been renewed for an additional five (5) year term.

Ms. McInnis shared an update on water violations: Ms. McInnis spoke with CDPHE (Colorado Department of Public Health and Environment), and they are working on closing the problem on the confusion on whether the property was properly permitted before being built.

A sewer violation on the failure to log influent and effluent pH results, should be opened and closed, with the work that has already been done.

A failure to calibrate influent and effluent flow meters will be open and closed if we can get the flow meters calibrated before the violation letter goes out and the water violation for the chlorine verification records for the BPPCC (Backflow prevention and cross-connection control) program and tank inspection program would be opened and closed as well, with the work that has already been completed. When CDPHE talks about violation being opened and closed it means that we have met the criteria to satisfy the requirements. The Public will still need to be notified of the violations.

Ms. McInnis explained for the Board that based on the updated data released in last two weeks, De Beque did not qualify as a disadvantaged community (DAC). Some criteria used for consideration include household income, unemployment levels, job loss, assessed value on housing units. The only remaining avenue is to seek a reversal of this decision which they call a "business case." It will require the Town to draft a letter explaining why De Beque is a disadvantaged community despite not meeting the criteria. Reversal is rare but Ms. McInnis will pursue. Ms. McInnis asked Board to let her know if they had additional suggestions to email her.

Ms. McInnis explained that an interim rate study for water and sewer was being done, along with one after the new plant. There was an analysis done which shows current rates are not covering the cost as we continue to subsidize from the general fund. There will be a presentation in May, where we hope to give the Board objective numbers.

Ms. McInnis made a suggestion that the Board may want to evaluate the tap fees as the Town's fee right now is \$5,100-\$11,000. As an example, that the tap fee for Loves going into Parachute will be \$82,000.

Ms. McInnis notified the Board that the Flower Collective water share has been transferred to the Town and that Fire District did locate their original certificates and will be transferring them to the Town. When this occurs, the Town should have all the water assets it owed in its portfolio.

Ms. McInnis announced that the Town was awarded a \$25,000 planning grant. The Town is hoping to submit a proposed project in August or September. Maverik is ready to move forward. They are completing some engineering work and have expressed some interest in assisting the Town with the I-70 bore project.

Staff met with Chris Endreson with UC Denver and his students, which are paid interns. Staff along with students drove around the community to get a feel for needs and wants. Students will return with conceptual ideas, that then will be presented in a Town Hall meeting.

There have been several development meetings with Joe Keys. Examples include reroofs, and one of those being with Xcel, which is requesting a "right-to-enter" to rebuild their line from De Beque to Rifle, as well as wildfire mitigation. Phase 2 will be to remove old line. Ms. McInnis explained Mesa County has looked into doing a survey for the proposed vacation of right-of-way and in doing so found that the parcel is too big and too costly to be surveyed. Mr. Davis said he spoke to Andrew from the County, with the possibility of donating our portion of the Town owned property.

Ms. McInnis shared that the Town awarded two scholarships this year. One in the amount of \$3,500 and one for \$2,500.00. Unfortunately, there was only had two applicants. The Scholarship committee increased the original amounts to be awarded by \$500, as the funds where available.

Ms. McInnis reported the large dumpster behind Town Hall has been dumped three times.

Ms. McInnis introduced Marge Mackey to give update on Wildhorse Days. Ms. Mackey said the format would be three days this year instead of four, the mud run will be held at the Elliott's property and there will be a gymkhana this year, but it is not affiliated with the Town. The Town is still needing volunteers that are 18 or older.

Ms. McInnis reported the employee parking lot behind Town Hall and around the bulk water station, have been improved with road base, thanks to a Board member's suggestion.

Ms. McInnis wanted to congratulate Reckless Roadhouse and remind everyone of the soft opening on Friday.

NEW BUSINESS:

REMAINING BILLS AND EXPENDITURES:

Expenditures related to the De Beque Country Store.

Motion:

Trustee Wood made a motion to approve expenditures related to the De Beque Country Store.

Trustee Farris seconded

Motion carried 5-0-1 with Mayor Hansen abstaining.

DISCUSSION AND ACTION REGARDING ORDINANCE NO. 520 (series 2022): AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF DE BEQUE, COLORADO AMENDING SECTION 10.24.050 OF THE MUNICIPAL CODE CONCERNING THE MUNICIPAL OFFENSE OF HARASSMENT

Ms. Gazda explained that two weeks after the approval of the updated changes to the Municipal Code. Two words were removed from State Statutes, this will update those changes.

Motion:

Trustee Farris made a motion to approve Ordinance No. 520.

Trustee Wood seconded
Motion carried 6-0

DISCUSSION AND ACTION REGARDING ORDINANCE NO. 519 (series 2022): AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF DE BEQUE, COLORADO AMENDING TITLE 7 OF THE MUNICIPAL CODE TO REGULATE SMOKING AND VAPING IN INDOOR AREAS AND PUBLIC OUTDOOR SPACES AND REPEALING AND REPLACING CHAPTER 10.54 TO PROHIBIT THE SALE OF VAPING DEVICES TO JUVENILES AND TO PROHIBIT VENDING MACHINE SALES OF TOBACCO AND NICOTINE PRODUCTS

Ms. Gazda stated that due to concern with minors vaping. The Town Code provisions are being updated to match State Statutes and to expand definitions.

Motion:

Trustee Farris made a motion to approve Ordinance No. 519.
Trustee Wood seconded
Motion carried 6-0

DISCUSSION AND DIRECTION REGARDING: License Agreement between Town of De Beque and Cap and Cookie, LLC, (Mud Run Property)

Mr. McConaughy explained the purpose of the agreement is to take advantage of the state statutes that states a private landowner will grant, a license, an easement or lease, to a public entity for recreational purposes. This gives certain liability protections. It's commonly used for trails.

Motion:

Trustee Wood made a motion to approve entering into a license agreement between the Town of De Beque and Cap and Cookie, LLC, (Mud Run Property)
Trustee Bruse seconded
Motion carried 6-0

DISCUSSION AND DIRECTION REGARDING: Commercial use of Community Center facilities by various private for-profit businesses/entities with relation to use by constituents and non-profit entities.

Ms. McInnis asked the Board for direction regarding: 1. Whether the Town would like to begin allowing commercial businesses to use the Community Center for property and if so, 2. Under what terms?

Ms. McInnis stated that a past Board established two different fee amounts in which could be charged to rent the Community center. The two fees were resident fee and a non-resident fee, and those rates have not been adjusted since 2008. If the Board votes to begin allowing the use of the Community Center by commercial entities? The question for this discussion is whether the Board

wants to allow a commercial entity to use the facility and if so, at what rate? One concern is that by allowing a commercial entity use of a Town owned property, it grants that business use of a building without having to find its own location which may unfairly compete with local businesses. How would the Board like to distinguish which business are allowed? Another concern is by renting the space to a Commercial entity, that entity may potentially ended up using the space as a permanent place of business.

Ms. McInnis also asked the Board to consider another alternative to allowing a private commercial use. The alternative would be to allow a program that is a good fit with the Town (ex. Yoga) to function as a Town program rather than allowing any/every commercial use. They could consider adding the instructor as an employee through the Rec. department.

Ms. McInnis reported that she understood there was an issue in the past when another entity started to establish more of an ownership than a use. (Ex. cabinets, trays, etc.)

Tarna Jones, a yoga instructor, was present and spoke to the Board about conducting a class. Mayor Hanson stated that further discussion on use of the Community center was needed and would be tabled until May. As a caveat the Town would allow Ms. Jones to schedule her class at the amount she was being charged in Collbran, which was six dollars an hour. Marge Mackey stated that right now the Town did not have an hourly rental fee, only a fee for a one-half day or a full day period. Trustee Wood said he would like additional information for the surrounding towns. Ms. McInnis just wanted clarification that in May the Board will verify whether to allow Commercial for- profit entities to conduct business and if so determine the fees.

OLD BUSINESS:

DISCUSSION AND ACTION REGARDING RESOLUTION NO. 2022-06: A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF DE BEQUE AMENDING THE TOWN FEE SCHEDULE TO INCREASE THE TOWN'S BULKWATER RATE.

Ms. Gazda explained that the Code already contained language concerning Bulk water and its rates, this was just a formality to change update the rates by Resolution.

Ms. McInnis informed as of right now the Town bulk water fee is at .01 per gallon, which was the same rate in 2014. In 2012 for non-metered water, it was .019. Ms. McInnis stated that Mayor Hansen had been approached by people saying the Town was doubling the rates. Ms. McInnis did find that the machine was incorrectly calibrated, it was charging \$7.80 instead of \$10.00 per every one (1) thousand gallons.

Motion:

Trustee Bruse made a motion to approve Resolution No. 2202-06.
Trustee Wood seconded
Motion carried 6-0

DISCUSSION AND DIRECTION REGARDING: BLUESTONE DITCH SHARES LEASE AGREEMENT BETWEEN THE TOWN OF DE BEQUE, COLORADO AND DEREK HANSEN AND ANGELA BARTON.

Mr. McConaughy explained that this is a proposed lease back of the Schlumberger water shares to Derek Hansen and Angela Barton. These shares were deeded to the Town, as required by the conditions of the annexation of the Schlumberger property.

Mr. Hansen stated he is not ready to move forward with the lease, he believes there are problems with it and new developments have arisen. Mr. Hansen is now requesting that the Bluestone Ditch shares the Town received from the annexation of Schlumberger, be returned to himself and Ms. Barton. Ms. Barton is his partner in the ownership of said property.

Mr. Hansen wanted to highlight past details for the new Board Members. Mr. Hansen said he purchased the property in November 2020 and believed the water shares transferred with the purchase of the property from Schlumberger. The certificates were lost, so Schlumberger provided Mr. Hansen and Ms. Barton with affidavits. Mr. Hansen believes the Town, more specifically Ms. McInnis and her lawyers, interfered with the return of those shares.

Mr. Hansen said his property was de-valued due not being able to use the water. That the Town Administrator asked him to convince the other owners to turn their shares, so he in return elected to work with the Town individually. Mr. Hansen stated because the Town got involved that his land dried up last summer from not being able to access the water. In August of 2021, the Town stated that if they wanted to de-annex, they could have the water shares. Mr. Hansen stated they had plans to someday subdivide. Mr. Hansen stated under duress, agreed to lease back the shares from the Town. Prior to him signing the lease, he attended a Bluestone shareholder meeting where he learned that another party was awarded their water shares directly from Schlumberger, with the help from Dufford and Waldeck law firm.

Mr. Hansen said he spoke with Ms. McInnis on what had changed, and that Ms. Gazda was present at the time. Mr. Hansen asked Ms. Gazda direct if this conversation took place, with Ms. Gazda stating she can not answer. Mr. Hansen implied that Ms. Gazda worked for Ms. McInnis. Ms. Gazda stated she works for the Town. Mr. McConaughy told Mr. Hansen they were not going to be cross-examined by Mr. Hansen.

Mr. Hansen stated that legal advice is so frustrating, and there are many ways to interpret. Stated that "Dufford and Waldeck successfully advocated for the transfer of shares that were due from the 2008 annexation, they advocated that it was null and void." That same day Mr. Hansen received the lease between himself and the Town from Christine Gazda. Mr. Hansen asked the Board to return the water shares back to Ms. Barton and himself, until they move forward with subdividing. Mr. Hansen is willing to pay the fee of \$600.00 or whatever it is to have them returned and requesting five shares in his name and five to Ms. Barton.

Mr. McConaughy stated Mr. McAnany's firm may or may not have a conflict of interest on this issue, it's up to the Board to decide. However, he does have a history, as the Town Board for the past 10 years has

instructed Garfield Hecht to enforce the annexation agreement with Schlumberger. Who agreed, through a recorded document, to transfer all the water shares to the Town. Mr. McConaughy said he understands that the property was purchased through an auction and may have not been a typical real estate transaction in which you would have received a title commitment showing the recording. The agreement between Schlumberger and the Town of De Beque, stated as a condition of being annexed, that they would convey all water shares. Whenever the opportunity has arisen, Garfield Hecht have tried to convey the message that the agreement was outstanding, some have complied, and others have not.

Mayor Hansen indicated that she had with ultimate respect to staff who has been working on this project and this may be what this Board directs you to do, but she does not personally believe the Town should continue this fight. She believes since the statute of limitations has expired, the Town cannot sue someone for them or so she has been told. Mayor Hansen believes that with development the Town would obtain any water shares for the use at that time.

Trustee Wood agreed to grant shares back, he feels the frustration with both parties.

Trustee Bruse acknowledged he has not been involved in most of the discussions, but the Town should give the shares back to Mr. Hansen.

Trustee Wood made the commit if we do not have an actual fight, why are we continuing it.

Mayor Hansen responded with the respect to the Town Attorney's and Town Administrator, they were trying to follow-up with a promise made eight years ago. The decision tonight, if made by the Board, is never to disrespect the work that was previous done.

Trustee Farris pointed out that initial intent was to work with Mr. Hansen to provide him access to the water. Considering everything that has happened and if others had their shares returned, it's only fair to give him his.

There were no other comments.

Mayor Hansen explained that the next Board meeting would have an action on the May agenda.

ADJOURNMENT REGULAR MEETING

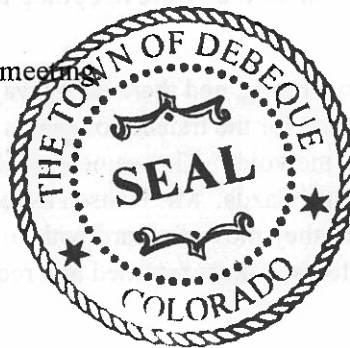
Motion:

Trustee Farris motioned to adjourn meeting.
Trustee Long seconded

Meeting adjourned at 9:48p.m.

Respectfully submitted,


Lori Malsbury, Town Clerk



Approved by the Board of Trustees


Shanelle Hansen, Mayor