

**TOWN OF DE BEQUE
BOARD OF TRUSTEES
REGULAR MEETING
MAY 24, 2022**

The regular meeting of the Board of Trustees was held on May 24, 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

Staff Present: Care' McInnis, Lori Malsbury, Lisa Rogers

Also Present: Sam Light, John Haas, Kathleen Haas, and Derek Hansen

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.

PRESENTATION: Colorado Intergovernmental Risk sharing Agency (CIRSA) Samuel J. Light, General Counsel.

Mr. Light presented to the Board, an overview of the responsibilities as a public official. As an agreement of accepting the role of a public official a Trustee will uphold the Town's ordinances and resolutions. Its important to know your job description and uphold your role for the organization to function at a high level and avoid risk of liability. The Board's job is to support legislative and corporate authority, the Town administrator is to oversee the day-to-day business, along with the support staff. The seven members of the Board function as whole, working together to ensure credibility, clarity, and accountability. The Board is to work as one, personal interest and agendas may have to be set aside, respecting the decisions the Board has made.

ADDITIONS, DELETIONS OR CORRECTIONS TO THE AGENDA

Ms. McInnis stated to the Board there were no additions, deletions, or corrections. However, some of the Board members stated there was documentation in their packets, which was not on the agenda. Ms. McInnis stated she has not reviewed it. Mayor Hansen said she believed it was in their box and not in the agenda packet.

ITEMS FOR PUBLIC PARTICIPATING IN CONFERENCE – NOT ON THE AGENDA

Kathy Haas stated, she and her husband John have applied for a conditional use permit with Mesa County, for a proposed primitive campground. They would like a letter of support from the Board. The

campsite is located outside city limits. It would have approximately 10 primitive camp sites, allowing tents only. Participants will access by foot, equestrian or boat, and there will be no more than 40 people per night. Ms. Haas provided Ms. McInnis, a map of the proposed lay out for the Board. Mayor Hansen asked that the item be continued to the June agenda. The Haas's will have provided a proposed letter, the Board can vote as to support or not during the June regular meeting.

BOARD COMMENTS:

Trustee Wood would like to know when the chip and seal will be completed. Ms. McInnis explained, she is waiting for the County. The weather needs to be dry and warm for a period and there were a couple areas that needed patched prior to their return. Mayor Hansen asked if that included a patch on Greig Avenue. Matt Nichols was to verify areas in need of patching, and once completed, was to contact Ms. McInnis, she has not heard from him, but he may have contacted public works directly. Ms. McInnis explained that De Beque has done its part and the County will come back and finish up.

Mayor Hansen asked if we could push CDOT on road repairs needed on the overpass. Trustee Lippoldt stated that the issue was not CDOT, but Road and Bridge Department, they need to contact and engineer. This information was from two weeks ago. Trustee Wood wanted to know if this issue was the potholes. Trustee Lippoldt said that was a separate issue, that the one she is speaking of is the overpass bridge.

Trustee Hambrick said she had a citizen approach her with concerns about the bulk water pricing and she suggested he come to a Board meeting to explain how the price is comparable. Trustee Wood gave a synopsis of water rates in the valley and suggested if the gentleman wanted additional information, he would be willing to speak to him.

TOWN MANAGER REPORT:

Ms. McInnis has emailed a calendar of upcoming meetings to the Board, as there are several matters to be addressed this month. Ms. McInnis told the Board, she can't thank them enough for making the time for the meetings, as they are important. There is one change, we will not be conducting Treasurer interviews on Thursday. We are down to one applicant, and that candidate is not an accountant. Ms. McInnis explained to the Board, that we are still actively searching, she has also spoken with the county, and is looking into other avenues.

Wild Horse Days will be held, July 22-24, this year and the mud run is a go at the Elliott property.

An open house with UC Denver will be held June 1st, from 4:30 to 6:30 at the community center. Its important to attend, as it is the river front property.

Ms. McInnis wanted to point out that the marijuana revenue at 12% is low. The preferred number should be around 33%. When the numbers were projected, they included the Flower Collective, which has not opened yet. When the County came in for their inspection, they pointed out an issue with the electrical, which delayed opening. Flower Collective did pay a substantial amount in use taxes when they obtained their permits.

Ms. McInnis explained that De Beque has been denied being designated as a disadvantaged community (DAC), as De Beque does not meet the financial criteria in terms of need. Being designated as a DAC community, is of significant importance to the Town and utility rates. (\$2.2M) The designation could

provide for more reasonable funding. As she mentioned prior, there is one final avenue to pursue and that is by submitting a business case. Ms. McInnis has prepared the case, which is on your desks for review. Ms. McInnis wanted to point out that it may be offensive to some, this is not for marketing. It's a tool to establish why De Beque should be considered for the designation, despite not meeting the criteria. This request is a long-shot and goes before their Board on June 3rd.

In 2021, the Town had requested a Small Communities grant for the water plant. The Town was not awarded the grant. The number of communities requesting the funds were extensive in comparison to the funds available. In making inquiries concerning the DAC designation, Ms. McInnis inquired about the Small Communities grant, as she had heard there were funds left over. The following week Ms. McInnis received word that the Town actually will receive, a Small Communities Grant of \$191,000, for the water plant.

Ms. McInnis said she would like to expand on bulk water facts, even though it was touched upon earlier. At the bulk water rate right now, (\$13.00, per 1000 gallons) the consumer receives 19.2 gallons of water for .25. A 400-gallon tank can be filled for under \$6.00, which is less than a role of quarters. As a courtesy, the Town will sell a roll of quarters a day, to each customer. The Town is purchasing the credit card machine for \$2,270, plus shipping and handling and paying approximately \$8.00 per month for cell service. The consumer will pay a surcharge to use the credit card feature. The surcharge does not go to the Town. Consumers may pay with quarters if they do not wish to pay the surcharge. Staff will post a sign at the machine informing consumers of the fees.

There is a map in your packet reflecting the bore under the interstate. We received \$25,000 planning grant for that bore. CDOT may object to one of the options, but they good with the bore. Maverick is still determining what they are going to do, and they may want to cost share.

The latest consumer confidence report can be located on our website and meets the publishing requirements.

The Town is still working with Mesa County regarding vacating the right of way. They may have run into an issue with a land lock. The County engineers are working on this issue. We will continue to communicate with them.

The annual audit is complete, and a copy has been provided to each Trustee. Feel free to read and reach out to Ms. McInnis with any questions. They did not identify any deficiencies in internal controls that they consider to be material weaknesses. They understand the Town is limited by the lack of a Treasurer and the size of staff. Staff will focus on checks and balances.

Highway user boundaries have been revised. There is no longer a 9th Street.

Ms. McInnis informed the Board that the State is offering Childcare grants. They are not affiliated with the town but, it may benefit the Community. If the Board can get the word out to anyone interested or doing childcare. It is a great program that offers up to \$50,000. They also offer smaller grants.

The Town is still looking for a bus driver if we can get the word out. We do have a lead on a mosquito tech.

The weed spraying will be done shortly. The lowest bid was with SRS, however there are scheduling

issues as they are looking for a tech to spray. We continue to be in contact with Bruce from SRS. If we cannot get an answer soon, we may have to use the contactor with the next lowest bid.

Planter boxes look great, and Ms. McInnis gave a shout out to Stanley and his helper.

CONSENT AGENDA:

APPROVAL OF MINUTES: (regular meeting 4/26/22 and special 5/10/22), **BILLS AND**

BILLS AND EXPENDITURES: Financial transactions, expenditures not related to County Store and/or other conflict items listed below as part of the regular agenda.

Motion:

Trustee Hambrick motioned to approve the minutes, bills, and expenditures on the consent agenda.

Motion carried 7-0

NEW BUSINESS:

REMAINING BILLS AND EXPENDITURES: Expenditures related to the County Store

Motion:

Trustee Farris motions to approve the expenditures related to the County Store

Trustee Wood seconded

Motion carried 6-0 with Mayor Hansen abstaining

DISCUSSION AND ACTION REGARDING: Approval of School Resource Officer contract between the Town of De Beque and School District 49 jt.

Ms. McInnis explained that the Board reviews this annually. In the past the Town and the School District split the cost 50/50 for the salary and benefits of the officer, over the 9-month school year. The proposed agreement would change the Town's obligation to 25% and the school district obligation to 75%, during the school year. Ms. McInnis provided examples of other communities and the costs. The SRO spends 98% of their time at the school during the contract period and the Town would be agreeing to pay 100% of the cost of the officer during the 3 summer months, and 25% during the 9-month school year.

Motion:

Trustee Lippoldt motioned to allow

Trustee Farris seconded

Motion carried 7-0

DISCUSSION AND DIRECTION REGARDING: Bidding results for implementation of Phase I of the Lagoon Liner Replacement project.

Ms. McInnis explained when obtaining bids, if the amount is over \$10,000, it must be presented to the Board for informational purposes, if the amount is over \$50,000, it requires multiple bids and the Boards approval prior to accepting. Ms. McInnis is asking for direction, as staff did solicit numerous companies, with only one bid submitted.

Motion:

Trustee Farris motioned to authorize the Town Administrator, to approve bid for Taylor Excavating at \$32,860

Trustee Bruse seconded

Motion carried 7-0

DISCUSSION AND DIRECTION REGARDING Partial bidding results for the implementation of SCADA within the De Beque water plant.

Motion:

Trustee Hambrick motioned to give authority to Town Administrator, to enter a contract with Filter Tech in the amount of \$47,570, unless the Town Administrator receives an alternative bid that is more appropriate.

Trustee Lippoldt seconded

Motion carried 7-0

DISCUSSION/PRESENTATION OF DATA PRIOR TO WORKSHOP REGARDING: Utility rates/enterprise funds

Ms. McInnis explained the information is being provided at this time to ensure the Board may have ample time to review prior to the workshop. The workshop will be held June 21st to discuss any questions. Ms. McInnis would like to prepare the Board for any questions that may arise from the public concerning the suggested rate changes. The Town has three basic applicable funds. The general fund cover expenses such as streets, public works, planning and the majority of salaries. The utility funds cover maintaining the water, sewer, and irrigation. These funds are not intended to produce revenues. The purpose of the utility funds is to cover the cost to provide the service and a small amount for the reserve. The reserve account is used to build up funds over a period of time, to maintain, repair and replace the water plant. Currently, De Beque has no reserve and must borrow or pursue difficult grants to cover the estimated \$2.2M required for its water & sewer needs. This lack of reserves stands to significantly impact rates. The impact is IN ADDITION to the rate increased outlined in the data which covers only the currently functioning cost of these services. Ms. McInnis explained to the Board that in 2017, the Town was in a similar situation. The Board approved a rate increase of 3% per year, for three (3) years. However, the increase still did not cover the deficit nor did it replenish the reserve account. The Town staff, accountant and engineers have worked together to provide objective data. There would need to be a 24% increase for water and a 31% for sewer. Which would be an increase of the water rate from \$27.71 to \$34.39 and sewer from \$41.22 to \$53.91 to be able to cover the loss and establish a reserve. The total increase proposed would be \$19.41, per month for in town residences.

Mayor Hansen asked for data showing percentage supporting the staff expenses from the water fund and is that percentage adequacy justified. Ms. McInnis stated the numbers are an estimation. If the Board chooses to not raise rates by the full amount of the current deficiency, the Town will have to subsidize out of the general fund, but there are limitations and concerns with the practice.

OLD BUSINESS:

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

Mr. McAnany explained that the Town owns ditch shares that were acquired through the Schlumberger annexation. In 2021, The Board had agreed to grant Mr. Hansen's request to lease the shares to the Mr. Hansen and Angela Barton. The lease has not been executed yet, as Mr. Hansen is now requesting that the Town should give him the shares. The Board has four options in which to decide how to manage the shares: 1) Enter into the requested lease with property owner for use of the shares. 2) Sale of the shares. As the shares are public property, the Trustees have a fiduciary obligation to the public, to sell the shares at fair market value. 3) Gift the shares with no consideration. However, since the shares are considered public property, Colorado prohibits the gifting real property that would benefit an individual. 4) Do nothing and keep shares.

Mr. Derek Hansen addressed the Board, explaining he does not understand, he believes that he should be able to pay the general fees to purchase the shares back. Mayor Hansen explained that the Board last month discussed an option that Mr. Hansen could receive the shares back, prior to knowing the full details of what the Board can do. There are State laws that limit what the Town can do, once the shares were conveyed, as then they became public property. Tonight, is for discussion to determine what can be done within the law. Mayor Hansen assured Mr. Hansen, that the discussion is with consideration of what he has already stated to the Board.

Mr. Hansen questioned why the third option was not valid. Mr. McAnany explained that the shares are considered real property and the Colorado Constitution prohibits publicly owned real property to be gifted. Mr. McAnany stated if the Board is inclined to take an action tonight, the clearest would be to lease the shares as requested by Mr. Hansen, to allow the landowner immediate use of the water.

Trustee Wood stated that the lease states exactly what had been agreed upon when Mr. Hansen and Ms. Barton previously addressed the Board. Mr. Wood believes this would be the best option at this time.

Trustee Farris asked for clarification from Mr. Hansen. She believed it was Mr. Hansen that brought the idea of the Town leasing the shares back to him before the Board initially. Mr. Hansen replied he did so under duress.

Mr. Hansen stated he was promised the water by Schlumberger at the time he purchased the land. Mr. Hansen asserted that, when Ms. McInnis found out about the water share transfer, she tried to put a stop to it, as those shares were promised to the Town.

Mayor Hansen asked that Mr. Hansen refrain from getting personal with the Town Administrator, as she represents the Town's interests.

Trustee Lippoldt asked Mr. Hansen to answer yes or no. "Did he ask the town for the lease?" Mr. Hansen stated he did. Trustee Farris said that was what she wanted to know.

Trustee Wood asked Mr. Hansen if he had read the lease. Mr. Hansen said he had but was not happy with the lease. Trustee Lippoldt asked what he felt was wrong with the lease. Mr. Hansen did not respond.

Trustee Wood pointed out the water shares were to be leased back to him and Ms. Barton. Trustee Lippoldt pointed out the lease consideration was for a dollar (\$1) annually. Mr. Hansen pointed out that he would have no ownership.

Mr. Hansen felt at the time he had no other option than to request the lease from the Town. Mr. Hansen did not want to fight, and Schlumberger was holding all the water shares.

Trustee Lippoldt asked Mr. Hansen to verify that his intention was to lease the shares from the Town, he said that was true. Trustee Lippoldt state that is where she stands.

Mr. Hansen went on to explain he felt his only option was to request the affidavit for the shares to be executed. Mr. Hansen did not want a legal fight.

Trustee Lippoldt explained to Mr. Hansen that the Board did as he requested by initiating the lease to allow him use of the water. Mr. Hansen believes the Town prohibited him from receiving his shares.

Mr. Hansen stated after the affidavit was signed, other landowners were able to obtain shares from Schlumberger through legal aid. Mr. Hansen believes the Town stood in his way of receiving his shares, due to him trying to work with the Town to expedite the process, in order to use the water.

Trustee Lippoldt asked why Mr. Hansen believes the town kept him from receiving his shares. Mr. Hansen stated that Schlumberger would not sign them over, because the Town said the shares rightfully belonged to them.

Trustee Lake suggested to Mr. Hansen that he should seek legal advice whenever dealing with land or water. Trustee Lake's opinion is that he should go with the lease agreement.

Mr. Hansen believes he came to the Town in good faith. The best way to secure the shares was to deal with the Town without a lawyer. Mr. Hansen felt pressure to finalize the agreement, so the shares were not lost, or in jeopardy of being auctioned.

Mr. Hansen respectively disagreed with obtaining a lawyer, he believed he did not need one. Mr. Hansen is upset that the other landowners may be able to obtain shares without de-annexing. Mr. Hansen asked the board to vote to sell the shares.

Mayor Hansen stated that Mr. Hansen's point had been made and thanked him.

Mayor Hansen stated that her position stands, she believes when Mr. Hansen goes to build, the Town will receive the shares back.

Trustee Hambrick shares the same opinion.

Mayor Hansen asked for a motion to move forward.

Mr. McAnany suggested two proposals. Either direct staff to prepare an ordinance to sell the shares at fair market value, staff would have to determine what that value is or the other alternative would be for the Town to lease the shares, as the lease has been submitted.

Ms. McInnis wanted clarification on fair market value. Fair market value is what the cost would be to purchase the shares outright, not the cost to transfer or the annual assessment. Mr. McAnany stated that was correct they are two different values.

Trustee Wood ask what the ramifications would be to enter into the lease agreement, upon the contingency of how much the fair market value would be, and if Mr. Hansen agrees to purchase, can the lease be terminated at that time? Mr. McAnany stated that if both parties at a later date, agree to the transfer of ownership, it would need to be presented in front of the Board as an ordinance. However, the Town cannot agree to sell in the future. This would need to be a separate new request in the future.

Trustee Wood was concerned if the water was not being used, that there may be a risk of losing the shares. McAnany assured the Board, if the assessments were paid, they would not be at risk. Trustee Wood emphasized that it would be beneficial to allow Mr. Hansen use of the water.

Mr. McAnany cautioned the Board that they are unable to promise the sale of the shares unless an ordinance has been approved.

Mr. Hansen stated that he was ready to irrigate, the lease was presented to him last month.

Mayor Hansen pointed out to Mr. Hansen that he was given the first draft of the lease to review in January of 2022. Trustee Lippoldt stated it was a year ago, with Ms. McInnis verifying that it was April of 2021.

Mayor Hansen stated that the Board knows the details, she does not wish to put it off to another meeting. Mayor Hansen suggested letting the Board vote to see if the lease would pass. The Board would have direction after, in which to give the Town Administrator.

Mr. McAnany stated that sometimes when the Board is presented with two options, the best approach would be to present a proposal. This would open direction to proceed with the result of that action.

Motion:

Trustee Lippoldt motioned to approve lease of Bluestone Ditch shares to Mr. Hansen and Ms. Barton.

Trustee Farris seconded

Motion carried 4-3, with Trustees Farris, Hambrick and Mayor Hansen opposing.

The Board asked the Town Administrator to proceed with obtaining a fair market value for a Bluestone water share, for informational purposes only. Ms. McInnis cautioned that it may take some time to procure a fair market value for the water share, as typically a water share is not sold individually.

Mr. Hansen requested that the item be added to next month's agenda.

Ms. McInnis asked the Board if they would be willing to dismiss Mr. McAnany, as there was just one agenda item remaining.

DISCUSSION AND DIRECTION/ACTION REGARDING: Data regarding other communities on rental fees. Whether to begin allowing commercial use by for-profit entities, If so rates.

Motion:

Trustee Farris motioned to move the item to agenda next month.

Trustee Lippoldt seconded.

Motion carried 6-1 with Mayor Hansen opposing.

ADJOURNMENT REGULAR MEETING

Motion:

Trustee Bruse motioned to adjourn.

Trustee Farris seconded

Meeting adjourned at 9:47 p.m.

Respectfully submitted,

Approved by the Board of Trustees

Lori Malsbury, Town Clerk

Shanelle Hansen, Mayor