

**TOWN OF DE BEQUE
BOARD OF TRUSTEES
REGULAR MEETING
JUNE 28, 2022**

The regular meeting of the Board of Trustees was held on June 28, 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: Lesa Arbaney Chesnut, Amber Swasey, Jason Paley, Cathy Latham, Dawn Palmer, John Haas, Kathy Haas, and James Roberts

CALL TO ORDER:

The meeting was called to order at 6:02 p.m. by Mayor Shanelle Hansen.

The Pledge of Allegiance was recited.

ROLL CALL:

Roll call was taken, and a quorum was present.

ADDITIONS, DELETIONS OR CORRECTIONS TO THE AGENDA

Ms. McInnis asked the Board to allow agenda item H2, (Discussion and Action regarding ordinance #521) be moved ahead of the Town Manager report. There were no other additions, deletions, or corrections.

ITEMS FOR PUBLIC PARTICIPATING IN CONFERENCE – NOT ON THE AGENDA

Cathy Latham addressed Board concerning the potential utility rate increases. Ms. Latham would like to know where the marijuana revenue is being used. She acknowledges there have been noticeable improvements; however, she questions what funds were used for those improvements. She believes the funds could be used for the water and sewer plant. Ms. Latham would like to know what other income the Town receives outside of the utility billing, property taxes, Mesa County, and marijuana tax. Ms. Latham also wanted to know if the employees for the water and sewer plant were the most cost effective as they are contracted part-time vs full-time Town employee. Ms. Latham was concerned with number of full-time employees currently employed at the Town Hall and would like to know if some could be reduced to part time. Ms. Latham went on to outline her current utility billing, along with what the billing may be with the proposed increase. Ms. Latham believes it would be beneficial if a portion of the marijuana revenue could be used toward the utility fund. Ms. Latham thanked the Board and stated if there was another workshop, she may have more questions.

Mayor Hansen thanked Ms. Latham

BOARD COMMENTS:

Trustee Lake believes there should be another rate study workshop scheduled, with the materials being available to the public prior to the scheduled date.

Mayor Hansen stated that the report from Wastewater Engineering is available now on the website or at Town Hall for anyone that would like a copy.

Ms. McInnis stated she will be addressing the rate study in her board report, as it is not an action item on tonight's agenda. The Board had previously elected to wait until July, to allow the community time to review. Ms. McInnis stated there was a suggestion to add an additional workshop. The first workshop was posted on the Town's website and on Facebook, as well as the community center window and the Town Hall bulletin board.

Trustee Lippoldt asked Ms. McInnis why there was two different utility data sheets provided to the Board. Ms. McInnis stated she would explain further in her report, the difference is one outlines the rate increases with operating costs only and the other document incorporates the cost of incurring the debt of 2.2 million for the water plant.

Trustee Wood asked Trustee Lippoldt if there was any word from CDOT on the bridge condition. Trustee Lippoldt stated the issue is on the docket for their August meeting.

Trustee Wood is concerned as to why Mesa County has not completed the chip & seal project and asked if the Town could pressure them to get it done. Ms. McInnis was told by Mesa County that they would be returning in two weeks. The Town is unable to force a completion date, as the County provided this service for free and there was no contract.

Mayor Hansen was approached by a citizen concerning parking in front of their house. This individual has received numerous warnings, then finally a citation for parking against traffic in front of their home. The citizen has a handicapped child. Unloading and loading the child is more convenient on the driver's side of the vehicle. Mayor Hansen said she is aware of what the code book says but believes there is something that could be done. Mayor Hansen asked staff to speak with the Town Attorney. Ms. McInnis respectively pointed out that she and the Board are prohibited from intervening with the court system, regarding a matter currently before the Court. Mayor Hansen said she understood but would like a change to the code for future incidences. Ms. McInnis stated, being a statutory Town, we must follow the State guidelines. Traffic code is regulated by the State and is of Statewide concern. There may be things the Board can change, but they cannot change matters of Statewide concern. The Town can certainly seek legal advice in the matter. Ms. McInnis will reach out to Mr. McAnany and report back at the next Board meeting.

DISCUSSION AND ACTION REGARDING ORDINANCE NO. 521: An ordinance vacating portions of the unbuilt road right-of-way for Rouse Avenue, Charles Avenue, Third Street, and an alley in connection with the planned construction of the new Mesa County community center.

Amber Swasey, Sr. Managing Analyst, with Mesa County, addressed the board concerning the vacating portions of unbuilt property. This would allow Mesa County to utilize the entire parcel that they own, for

the future placement of the community center. This project was promised by the County Commissioners in 1982. The design & engineering company will be DLR. Mesa County agreed to investigate re-homing the wildlife currently living on the property. Trustee Hambrick offered to provide information on a company that may be willing to help relocate the animals. Ms. Swasey stated there may be utility lines that may need relocated. The cost will be covered by Mesa County. Trustee Wood asked if there would be service interruptions to the homeowners in the area. Mayor Hansen stated there should be no issues, with Ms. Swasey concurring.

Motion:

Trustee Hambrick motioned approve
Trustee Lake seconded
Motion carried 7-0

TOWN MANAGER REPORT:

Ms. McInnis reported that since the last regular Board meeting there have been five evening meetings, four of which were public meetings.

UC Denver's Chris Endreson, along with his students, presented conceptual ideas for the use of riverfront property. They will return for another public meeting after implementing the ideas from the public participation.

Mesa County Commissioners were in Town, along with the County Assessor and County Administrator to meet with the community.

The County also held their weekly department head staff meeting with our staff. The County Administrator, Assistant Administrator, Human Resources, CFO and Assistant CFO, Planning Department Building Department, were in attendance. They have offered their assistance and to answer questions for the Town's staff.

The Planning Board continues the audit of the land use code. Suggestions will come before the Board of Trustees when completed. Planning will have the XCEL rebuild, on their July 12th agenda, which is XCEL rebuilding their power lines.

Ms. McInnis explained that for several years the Town has received a bus grant up to \$2,500. This year the amount is up to \$5,000, however the focus on this grant is for senior citizen use only. Ms. McInnis asked for any suggestion to spread the word to the seniors. Town staff is willing work with the seniors on dates and times.

The Town may pursue a new CDPHE grant, based on emerging contaminants. The goal is to provide a secondary source of water in case of emergency. The Town's staff has had an initial meeting with CDPHE.

Ms. McInnis reported that the staff is in the process of reviewing the 2023 budget. It's more complex than in previous years. Mesa County has offered to provide De Beque with a salary survey to determine more precise figures.

The bulk water machine is accepting quarters. Ms. McInnis and Trustee Farris personally verified the calibration, and it was correct. The credit card function is still being negotiated to ensure the best possible

terms for the constituents for the service and transaction fees.

The lease for Mr. Hansen and Ms. Barton was delivered, immediately after the June meeting. There has been no word. The Board asked Ms. McInnis to provide additional information on what the fair market value would be for a Bluestone water share. Ms. McInnis stated it was difficult to acquire the information. Ms. McInnis obtained information from the auction in 2019, where Bluestone shares sold for an average of \$550. Bluestone's attorney, Mr. Livingston does not believe this reflects fair market value. Ms. McInnis was able to speak to an individual who purchased a share for \$500. That individual stated the price of the share was higher than she anticipated, and she felt they gave her a deal on the price of the share. Ms. McInnis spoke to a prior Bluestone Board member for any other suggestions as to where she could obtain additional information. Ms. McInnis also discovered some shares have previously sold in the range of \$750-\$1,000, per share.

The Town officially received the Bluestone water shares from the Fire District.

Ms. McInnis expects that the year-to-date marijuana revenues will now increase as the Flower Collective is now fully operational and they have begun to harvest. They will also be working on their landscaping.

Garfield County will be laying gravel on the road leading West into river park. This service is part of the agreement with Garfield County, which allows them the use of Town property to pull water from the Colorado River. This service is at no cost to the Town. This will not occur until fall.

Ms. McInnis was notified that De Beque made Senators Hickenlooper's short list of projects. This would be for the water plant and there are further steps to complete.

Ms. McInnis reported that staff met with Carter Elliott and his son Steve, the Wildhorse Day's mud run is set to go. The Town has agreed to restore the property after the event. The deadline for craft vendors is July 8th and for food vendors is July 1st. There will be seventeen craft vendors and six food vendors. The sign-up for the parade will be the morning of the parade in the De Beque High School parking lot. There will be music Friday evening and all-day Saturday. The Grand Marshals will be Darrell and Suzie Kuhns.

Ms. McInnis stated there would be no decision tonight on the utility rates. The item will be on the July agenda, allowing more time for review. Ms. McInnis affirmed that there would be an additional workshop scheduled. Ms. McInnis pointed out that the current water rates are a problem, but the sewer rates are significantly more of an issue. Westwater Engineering provided a memo and a spread sheet of the projected rate analysis. The data consists of the prior year's expenditures, revenues, and deficiencies. This is based on terms of a five-year service rate analysis from years 2022-2026. It's important to note that the 2022-2026 analysis takes in account the revenues and expenses, along with the future reserve. It DOES NOT take in account the need to borrow and receive grant funding for the \$2.2M water plant project. The Board was provided additional data of the requirements to maintain the Enterprise status. It included the cost of the new water plant and maintenance. Ms. McInnis expressed it is extremely important that the water fund be self-sustaining.

Ms. McInnis notified the Board that De Beque was granted the DAC designation (Disadvantaged Community). The Town has pursued this designation for a year and a half and was denied twice. De Beque did not qualify based on the criteria such as, household income, unemployment levels, job loss and assessed home value. The last effort included presenting a business case to the Water and Power Authority. This request was approved. This is incredible news, and it significantly impacts the

Community. This designation is only good for eighteen months, which may force the Town to close on any loan for the water plant in 2022.

The Town must maintain their Enterprise status. Ms. McInnis has met with the Town's Bond Counsel and the Town Engineers. The time frame is very short to get the SRF funding lined up, to use 2021 data for qualification. The Town may need to use 2022 data as a basis, which means there will need to be a rate increase to maintain the Enterprise status.

There are two reasons why the Town needs a rate increase; 1. Costs outweighs rates and have for years. 2. Must maintain Enterprise status and 110% ratio to get SRF funding and any hope of principal forgiveness. The DAC status will allow for debt forgiveness. Mayor Hansen asked if Ms. McInnis would explain the definition of "Enterprise Status" for the public, Ms. McInnis explained that utility funds must be self-sustaining, the fund works as its own business. The revenue received through the rates must cover the operation costs. An Enterprise Status is a legal status, which signifies that not only is the utility fund self-sustaining, but also contemplates a 10% reserve.

Mayor Hansen stated the Town is eligible for more grants with an Enterprise destination. Ms. McInnis said that the DAC designation, further increases that eligibility.

Ms. McInnis said with the DAC designation a \$265,000.00 design and engineering grant was awarded. This may increase to \$300,00.00, with the need of an environmental analysis, which can be covered by grant funding. The Town is now a candidate for a principal forgiveness up to a maximum of \$2M. There will be a split of loan forgiveness and loan debt. This will be a split of 80/20 or as low as 20/80.

The Town is mandated to have a Bond Council with the DAC designation. They do a critical review to ensure the Town is financially sound, by verifying the Town is charging what it costs to provide the service. There are very few Bond Council attorneys, and their fees range from \$15,000-\$25,0000. The firm Ms. McInnis has been in negotiations with has submitted a quote of a flat fee of \$15,000.00. This cost can be covered with the grant funds.

Ms. McInnis continued with a summary of how the Town's current utility rate status developed. Ms. McInnis explained that in 2018, the Board received information with concerns for the need of a rate adjustment for maintenance and replacement of critical infrastructure. It stated a minimal increase would not produce enough revenue to cover all the expenses.

In 2012, the rates did not cover the operating costs and the Board approved a 9% increase to cover the 2012 deficiency, to be spread out over the years 2013-2015. No adjustments were made in the years 2016 or 2017. In 2018, the recommendation was to implement the same 9% increase over 3 years, for 2018-2020. However, these increases only addressed the existing deficit. They did not take in account for future costs or inflation.

Ms. McInnis pointed out that State statute requires that an Enterprise (utility) fund must operate primarily through rates and fees and must be self-sustaining. In 2018, it was recommended that the Town continue with periodic adjustments to maintain a reserve for capital improvements.

Ms. McInnis asked for direction from the Board if they desired to schedule another workshop and noted she would be out of the office one week in the next month.

Mayor Hansen allowed for public comments from Cathy Latham, who expressed the potential of financial hardship with raising rates and asked what would happen if the Town chose not to raise utility rates. Mayor Hansen offered to obtain all the answers to Ms. Latham's questions and to answer them at the next public meeting.

Mayor Hansen asked that Ms. McInnis explain why De Beque needs a new water plant.

Ms. Latham interjected, that in her opinion, the public would not come to the workshop as they are still disgruntled due to the number of marijuana vendors allowed in the Town. Mayor Hansen stated that that was a different situation.

Ms. McInnis explained that the Town needs a new water plant and it risks being in violation and receiving fines. Sewer lagoons also need maintenance. The utility funds must break even, plus 10% for future maintenance. Ms. McInnis stated that the Town will be forced to update the water plant. It is in the best interest of the Town to maintain the Enterprise status to obtain the grant money to pay for the plant and to complete the sewer repairs.

Mayor Hansen ensured the audience that notification of the workshop would be publicized.

CONSENT AGENDA:

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

BILLS AND EXPENDITURES: Financial transactions, expenditures not related to County Store.

ROCKY MOUNTAIN CANNABIS COLORADO, LLC: Notice to Board of automatic renewable lease back of non-potable irrigation water.

Motion:

Trustee Hambrick motioned approve

Trustee Lippoldt seconded

Motion carried 7-0

NEW BUSINESS:

REMAINING BILLS AND EXPENDITURES:

- i. Expenditures related to the County Store

Motion:

Trustee Wood motioned to approve

Trustee Bruse seconded

Motion carried 6-0, with Mayor Hansen abstaining

- ii. Expenditures related to the Lisa Lippoldt

Motion:

Trustee Hambrick motioned to approve

Trustee Wood seconded
Motion carried 6-0, with Trustee Lippoldt abstaining

DISCUSSION AND ACTION REGARDING: Engagement of Bond Counsel, Butler Snow LLP, Kim Crawford.

Ms. McInnis indicated Bond Counsel is required for SRF process.

Motion:

Trustee Farris motioned to accept the Bond Counsel, Butler Snow LLP
Trustee Lippoldt seconded
Motion carried 7-0

DISCUSSION AND DIRECTION REGARDING: De Beque Board of Trustee's priority for expenditure of limited budgeted funds for sidewalk ramp repair, and/or construction.

Ms. McInnis sought direction regarding the funds that were budgeted for sidewalk repair and replacement, as the funds were held in anticipation of receiving matching grant funds. Those grants were not awarded to De Beque. There is one remaining grant, in the amount of \$150,000, if awarded the match would be 10% (\$15,000). Ms. McInnis inquired whether the Board wishes to use the budgeted funds at this time or hold them in the anticipation of matching funds next year. Maps have been distributed to the Board to help prioritize locations if they would like to move forward now.

Trustee Lake suggested touring the Town to establish what needs are required.

Trustee Bruce stated he would like to see the aprons addressed first, starting at the intersection of 4th & Minter.

Trustee Wood suggested an overlay process that may lower cost.

Trustee Hambrick believes there is a need for a sidewalk on Stewart, between 3rd & 4th street.

Trustee Lippoldt expressed concern about 5th & Minter not having a sidewalk, as school children use road at a route to school.

Motion:

Trustee Farris motioned to table item to July agenda
Trustee Lake seconded
Motion carried 7-0

OLD BUSINESS:

DISCUSSION AND ACTION REGARDING: Requested letter of support by the De Beque Board of Trustee's for a primitive campground in Mesa County developed by Kampa Lampa, LLC.

Motion:

Trustee Lippoldt motioned to approve a letter of support

Trustee Wood seconded
Motion carried 7-0

DISCUSSION AND ACTION REGARDING: Commercial use of Community Center facilities by various private for-profit business entities with relation to use by residents, (within zip code), and non-profit entities.

Ms. McInnis explained this item is to address whether the Town should allow for-profit business use of the Community Center. Ms. McInnis provide the Board with data of the surrounding communities.

Mayor Hansen pointed out that the facility was a Community Center and not part of Town Hall.

Ms. McInnis clarified that the Towns rates at this time allow for fees for an in-town resident vs out-of-town resident. There is no designation between commercial and private.

After deliberation, the Board agreed there will be no distinction between commercial and residential use.

Motion:

Trustee Farris motioned to approve a \$25.00 non-refundable cleaning fee to the in-town residence and no change to the out-of-town.

Trustee Hambrick seconded
Motion carried 7-0

DISCUSSION AND DIRECTION REGARDING: Enforcement of previous obligation regarding landscaping requirements- Hava Gardens.

Ms. McInnis updated the Board concerning Hava Gardens being in non-compliance, regarding their landscaping.

Hava Gardens was established in 2020, as a cultivation grow and were to complete specific landscaping requirements. Discussions have been held concerning the completion of the landscaping in December 2021, with plans presented to the Board by a representative of Hava. The Board was assured plans would be implemented in March 2021. The Town received additional plans in February of 2022. In May 2022, the Town received correspondence from Hava that their landscaper backed out of the project. May 25, 2022, the Town received word that they did have the plants and would be installing them their selves. May 27, 2022, the Town received an email from Hava that the order for the plants had been halted. The same day the Town received an email from Ms. Grossman, stating that wholesale prices had declined, and she asked the project to be put on hold.

Ms. McInnis reported that the State mandates market rates and that those calculations had already accounted for. Ms. Grossman has previously indicated that Hava is an integrated company, and not subject to fluctuations in the wholesale market. Ms. McInnis also reported that they have applied for a retail license in the City of Grand Junction.

Mr. Jason Perry, the Director of compliance, stated when Hava opened in 2020, the market value of the product was \$1,700 per pound, in April 2021 the values started to decline before the first grow was ready to harvest. As of July of 2022, the market value is now \$7.09. At this time Hava is trying to stay open and

in compliance with other regulations, as well as keep employees paid. They are asking for leniency until the market improves, in order stay in business.

Mayor Hansen believes that the Town has been generous with the time they have allowed Hava to complete the landscaping and is concerned that there is no guarantee that Hava will not just close without following through.

Ms. McInnis stated that the Board must consider that the Town has held other retailers accountable to the requirements.

Trustee Farris stated that it is unfortunate that nothing has been done and asked Mr. Perry if Hava could take some action. She suggested doing the landscaping in increments.

Ms. McInnis asked Mr. Perry when Hava applied for the license in Grand Junction, if they had indicated they were in good standing. Mr. Perry said they were required to prove funding with the application process. Their investors see an opportunity and are willing to support a dispensary instead of the grow.

Mayor Hansen would like to see forward progress.

Mr. Perry offered to start with clean up and he was willing to bring in photos.

After deliberation and discussions, Ms. McInnis asked for clarification that Hava will need to complete the landscaping, but will be allowed to complete in phases, along as there is noticeable improvement.

ADJOURNMENT REGULAR MEETING:

Motion:

Trustee Farris motioned to adjourn.

Trustee Lippoldt seconded

Meeting adjourned at 9:16 p.m.

Respectfully submitted,

Approved by the Board of Trustees


Lori Malsbury, Town Clerk


Shanelle Hansen, Mayor

