

TOWN OF SAGUACHE
Board of Trustees
Special Session
November 16, 2011

The Town of Saguache Board of Trustees met for a Special Session on November 16, 2011, with Trustees being present as follows:

Mayor Milton Jones	Present
Mayor Pro-Tem Dario Archuleta	Present
Ruth Horn, Trustee	Absent (Excused)
Lyn Miles, Trustee	Present
Tina Serna, Trustee	Present
Carla Quintana, Trustee	Present
Kate Vasha, Trustee	Present

Town of Saguache employees being present as follow:

Therese Garcia, Town Clerk	Present
Dan Pacheco, Public Works	Present

Citizens in Attendance: Kim Smoyer, ScSEED.

Call to Order: Mayor Jones called the meeting to order at 7:00 p.m.

Moment of Silence and Pledge of Allegiance: was led by Mayor Jones.

Review/Discuss/Approve - Documents to send to SLV Earth Movers: Ms. Smoyer presented the spreadsheet of expenses for the project and explained the various entries. There was discussion of the various possible back charges to the contractor. The first one was for exceeding the allowed contract days. An arbitrary number of 35 days is currently being used. That represents the day that the contractor backfilled around the curbs, and gives a back charge of \$17,500. Mayor Jones pointed out that the engineer's report includes the need to repair the electrical boxes, which has not been done, so the Town could legally say that the contract is still not complete. This could be used in negotiations with the contractor. The contract is now 65 days over, which would be \$32,500. Trustee Vasha asked if the contractor has been legally notified that we consider the job incomplete. Mayor Jones replied that the engineer sent him a punch list, which was only partially completed. The trustees decided to ask for a back charge of \$17,500 for 35 days, and keep the possibility of asking for more as a negotiating point. The second possible back charge is for Alpine Surveying. Justin Lewis, the foreman, reported that they were ready for the surveyor, and the surveyor came out and put in the stakes. But the contractors weren't actually ready and had to remove the stakes to complete certain aspects of the work, and the surveyor had to return and survey again. Since that was contractor error, the Town should not be paying for a second survey. This is a back charge of \$3160. The Trustees decided to keep this back charge. The third back charge was because the engineer found low spots in the street before the asphalt was laid. The contractors had to bring in more Class 6 material and the engineer had to make a second

trip to check the street. This was also a charge caused by contractor's error. The Trustees agreed to keep that charge. The next two back charges refer to supplies the Town had in inventory or had purchased, which were used in the project. The contract states that the contractor will provide all necessary supplies. Ms. Smoyer pointed out that the supplies can be used as part of the in-kind contribution that the Town committed to provide for the grant. The Trustees decided to keep this back charge in as a negotiating point, but that the Town would be agreeable to dropping this back charge since it can be used as in-kind. Trustee Vasha asked when the negotiation would happen. Ms. Smoyer explained that tomorrow the engineer, Sarah Bergstrom, will draft a letter to be signed and mailed by certified mail tomorrow or the next day. It will include a line for Jim Willschau to sign off, and if he accepts it he will sign and it will be completed. Otherwise there will be a meeting to discuss the situation. Mayor Jones mentioned an advantage that the Town will have in a negotiation. The project manager that handled the project for SLV Earth Movers has since been terminated, so he is not apt to be willing to help SLV Earth Movers in a negotiation. The Town decided to leave the back charges in.

The final back charge was for the electrical boxes, which were installed crooked. After negotiation, the Board decided to leave it in, but would be willing to let it go during the negotiation. Trustee Quintana asked about the sidewalk by the courthouse, which is crooked. The Mayor explained that when the forms were put up, it was with the sidewalks offset from the existing sidewalks. This was first noticed when the concrete was about to be poured. To require the forms to be redone would have wasted an entire load of concrete, so the Mayor decided to let him pour by the courthouse so as not to waste all of the concrete.

Ms. Smoyer explained that the amount of money left in the grant could be anywhere from \$5,000 to almost \$50,000 depending on whether the back charges are accepted or not. As the project manager, she recommended that no more money be spent until the amount is clarified. Since the claims for property damage are currently around \$1,000, Mayor Jones suggested that the Town agree to pay them so that the question of paying for repairs won't drag out.

Ms. Smoyer listed other items that could be purchased with the remaining money, once a final amount is determined. The Trustees agreed that they couldn't make decisions until they know the final amount. Mayor Pro-Tem Archuleta mentioned that SLV Earth Movers was supposed to put up signs but didn't do so. The Trustees agreed to add them to the back charges, if the contract did state that SLV Earth Movers would do that. Mayor Jones mentioned that the Town Clerk and Public Works Director spent time on the project, which could be included as back charges.

Ms. Smoyer mentioned that there are potential back charges that SLV Earth Movers could have against the Town of Saguache. One is that they want the Town to pay for Class 6 material, because the engineer's original calculation was too low. Mr. Pacheco said that they needed additional material because they made the road cut too low, while the contractor says that it is because the engineer made an error in the calculation. Mayor Jones pointed out that the packet that will be sent to SLV Earth Movers never mentions that there are items that could be back charged for work completed by the County and the Town, and he suggested that mention be made of these possible potential back charges.

MOTION by Trustee Serna; Second By Trustee Vasha

Trustee Serna moved to send the letter to SLV Earth Movers, with the back charges that the Trustees chose to include.

Vote as follows: Trustee Quintana – aye; Trustee Serna – aye; Trustee Miles – aye; Trustee Vasha – aye; Mayor Pro-Tem Archuleta – aye; Mayor Jones – aye

VOTE: 6 – Aye; 0 – No; 0 – Abstain *Let the minutes reflect the Vote was unanimous.*

Trustee Quintana mentioned that the letter should include a time limit, so the situation can be resolved. The Board also agreed that it should include a comment on possible other charges, and that the letter be sent by certified mail.

Ms. Smoyer asked the Board to agree that, other than the Christmas lights that are needed to decorate the tree, no more money will be spent until the Board knows just how much money will be available. The Trustees agreed to that. There was additional discussion of the possibility of the Town paying for damage to buildings as long as the amounts are low. The Trustees agreed that before anyone received money, they would sign a form stating that they won't return asking for any additional compensation in the future.

Trustee Quintana asked for garland around the light poles. Ms. Smoyer said that the Town could buy the garland, but it can't be purchased with the CDBG grant funds because it wasn't included in the original grant. Trustee Serna asked if a school group could sell refreshments at the tree lighting ceremony to raise money for the trip to Washington, DC next spring. The Trustees agreed. Ms. Smoyer suggested that the Town invite the County Commissioners, Deb Downs from DOLA, contractors and granters to the ceremony. It was agreed that Ms. Smoyer and Clerk Garcia will send an email to all appropriate parties inviting them to the ceremony on December 3, 2011 at 5:00 p.m. Trustee Vasha mentioned that the Friends of the Library, who are holding a Holiday Bazaar on December 3rd, will be developing a flyer to hand out at the Bazaar. It will mention other merchants in town that will be open that day, and will also mention the Lighting Ceremony.

Discuss Additional Sidewalks – 4th Street: Since there was agreement earlier in the meeting to not spend additional money on the project at this time, this subject was tabled until the financial situation is clarified.

Adjourn: There being no further business, the meeting was adjourned at 7:46 p.m.

TOWN OF SAGUACHE BOARD OF TRUSTEES
SAGUACHE, COLORADO

Milton Jones, Mayor

ATTEST:

Therese Garcia, Town Clerk