

TOWN OF SAGUACHE
Board of Trustees
Special Session
June 12, 2012

The Town of Saguache Board of Trustees met for a Special Session on June 12, 2012, with Trustees being present as follows:

Mayor Milton Jones	Present
Mayor Pro-Tem Dario Archuleta	Present
Lyn Miles, Trustee	Present
Carla Quintana, Trustee	Present
Tina Serna, Trustee	Present
Greg Terrell, Trustee	Present
Kate Vasha, Trustee	Present

Town of Saguache employees present as follows:

Therese Garcia, Town Clerk	Present
Johnann McKee, Deputy Clerk	Absent
Dan Pacheco, Public Works	Present

Town of Saguache Attorney present as follows:

Eugene Farish, Attorney	Present
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Citizens in Attendance: Alexandra Harrison

Call to Order: The meeting was called to order by Mayor Jones at 7:02 p.m.

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

Discuss alternate voter for CIRSA meeting: Clerk Garcia explained that she and Mayor Jones are the approved voters. Since Trustee Terrell will be attending the CML Meeting, he will also attend the CIRSA General Meeting that is held during the CML meeting. If the Board approves, Trustee Terrell can be appointed as an alternate voter for that meeting only.

MOTION by Mayor Pro - Tem Archuleta; Second by Trustee Serna

Mayor Pro - Tem Archuleta moved to appoint Trustee Terrell alternate voter for the June 20, 2012 CIRSA General Meeting.

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

VOTE: 7 – Aye; 0 – No; 0 – Abstain *Let the minutes reflect the Vote was unanimous.*

Independent Contract Agreement for Park Survey: Trustee Vasha reported that Mr. Conlin, who was originally chosen to run the upcoming meeting and analyze the surveys, was injured and is unable to do the work. He recommended an alternate person, who is

willing to do it for the same payment. The Board needs to approve the contract, with the only change being the name.

MOTION by Trustee Serna; Second by Trustee Miles

Trustee Serna moved to approve the contract for the new planner (Colleen Hannon, West Slope Resources Development- WSRD) for the park survey, pending getting any required information and making necessary changes.

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

VOTE: 7 – Aye; 0 – No; 0 – Abstain *Let the minutes reflect the Vote was unanimous.*

Scenic Byways Support: Trustee Vasha reported that on June 27, 2012 the Cochetopa Scenic Byways Commission is coming to the area for a whirlwind tour. They will be having lunch at Buffalo Pass Campground, and the BLM will spend about \$1000 on the tour and lunch. Trustee Vasha requested that the Town agree to donate \$100 toward expenses for the lunch. Trustee Archuleta pointed out that having the National Scenic Byway would benefit Saguache. Clerk Garcia reported that there is some money in a miscellaneous category in the General Fund, which could be used to buy food for the lunch. Trustee Vasha also asked that the Town become a sponsor for the Cochetopa Scenic Byways. At this point Saguache County and the BLM are sponsors. It would not require an additional financial contribution. She invited the Trustees to attend the lunch.

MOTION by Trustee Miles; Second by Trustee Serna

Trustee Miles moved to make a one-time contribution of \$100 to support the lunch for the Scenic Byways.

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

VOTE: 5 – Aye; 0 – No; 2 – Abstain

MOTION by Trustee Serna; Second by Trustee Terrell

Trustee Serna moved to become a sponsor of the Cochetopa Scenic Byways.

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

VOTE: 7 – Aye; 0 – No; 0 – Abstain *Let the minutes reflect the Vote was unanimous*

Discuss the process for straw-polling the Board of Trustees: The Clerk and Board asked Attorney Farish for clarification of how to make decisions between meetings. The question arose because at the last meeting the Board passed a motion to put Historic Downtown banners on all of the light poles for Memorial Day. But the following day, as the banners were being put up, several citizens asked that the Historic Downtown banners, which are not brightly colored, be alternated with the more colorful sunflower banners. Since the motion had specified Historic Downtown banners, Clerk Garcia called all of the Board members to ask if they wanted to alternate banners, and a majority said yes, so the banners were alternated. Mayor Jones pointed out that decisions can only be made during meetings, with a motion and second. He feels that only a Board Member

can take a straw poll, and that a straw poll should specify that a Board Member has requested it and feels a certain way about the subject. Attorney Farish listed several points. First, the Town Clerk is being used as a quasi-administrator, and it is unclear how much authority she has for administrative matters. Second, when a decision is made by the Board, it is a Board decision, and if a Board member (Trustee or Mayor) countermands that decision, it can raise liability issues for the individual, because they are acting outside the scope of their authority by going against a Board decision. Straw polling to change a decision is also a problem because it is countermanding unofficially what was decided officially, but official decisions of the Board stand until they are reversed officially. Mayor Jones said that there are decisions that come up once or twice a week that he needs to make. He mentioned calling the contractor who recently completed the sidewalk work to inform him that one section was done incorrectly, and pulling a head gate to stop a ditch from flooding a yard over the weekend when he was unable to reach either maintenance employee. Attorney Farish said that the Town's insurance carrier would probably advise against a single elected official making administrative decisions. He recommended that the Board define what administrative decisions the Town Clerk and Director of Public Works can make. He emphasized that when the Mayor makes decisions on his own, he is acting outside the scope of his authority, and could be sued. The same would be true for other Board members that acted individually. Mayor Jones asked what the decision-making process is. Attorney Farish said that it is what is decided in meetings, plus whatever authority the Board gives to the Clerk and Director of Public Works. He recommended giving the Clerk and Director of Public Works broad enough authority to make decisions between meetings. He recommended that the Board not give authority to act individually to any single Board member, because that raises liability issues. The Board of Trustees (elected officials) make policy, and the staff carries out the policy. When the Board sets policy they are acting within the scope of their authority and have immunity. Attorney Farish also pointed out that the Board has the authority to hold an emergency meeting if the need arises, and in that case the Town is not required to post notice. Trustee Vasha suggested having a staff member on call every weekend to handle things like pulling the head gate. Director of Public Works Dan Pacheco said that he does not consider pulling a head gate to be an action that requires a Board decision. He also mentioned that he had asked Clerk Garcia to do the straw poll about the banners because staff does not know who to listen to, and feel they are not allowed to make decisions themselves. Attorney Farish said that deciding to have banners downtown is a policy decision. Choosing what banners to put where would be an administrative decision and should be made by Town staff. He recommends that the Board give the Clerk and Director of Public Works authority to make administrative decisions. Mayor Pro - Tem Archuleta pointed out that giving the staff the authority to make administrative decisions would lighten the load on the Board, but if the staff made inappropriate decisions it could lead to disciplinary action. Trustee Vasha added that it could only lead to disciplinary action if the decision was inappropriate, not simply because a staff member made a decision that a Board member didn't personally like. Attorney Farish said that if the Board has given staff authority to make certain decisions, then they can't criticize the staff for the decisions they make. He said that municipal governments of any size work best when the Board sets policy and the staff has specific authority to implement that policy. It doesn't work well when the

staff has no oversight from the board, but it also doesn't work well when a Trustee or Mayor micro-manages and makes decisions that should be made by staff. Clerk Garcia pointed out that the Board should trust that the staff can do their jobs. Trustee Quintana mentioned that the Clerk and Director of Public Works aren't always available, so perhaps the other staff should also have authority to make decisions. Attorney Farish emphasized having a chain of command, rather than everyone being able to make all decisions. He suggested including the scope of authority in the job descriptions. He also suggested having a chain of succession for who might be called if the Clerk or Director of Public Works finds themselves in a situation which they do not feel authorized to handle. Trustee Vasha mentioned that the Board members must not act individually, and when citizens approach them with problems the Trustees must tell them to fill out a work request form, or come to the Board meeting, and not succumb to the pressure to promise a certain outcome as an individual Trustee. The Board asked Attorney Farish to send examples of job descriptions that include delegation of authority to the Town Clerk and Director of Public Works, and the Board will consider them at their next regular meeting. Trustee Vasha asked the staff to no longer accept being pushed by any individual Trustee, but to push back—to tell them that their direction is not appropriate and the matter should be taken to the Board. Mayor Jones stated that if he thinks a decision needs to be made on the spot he will make it, and the Board can reverse the decision later or somebody can sue him.

The meeting was adjourned by Mayor Jones at 8:04 p.m.

TOWN OF SAGUACHE BOARD OF TRUSTEES
SAGUACHE, COLORADO

Milton Jones, Mayor

ATTEST:

Therese Garcia, Town Clerk