

The following is intended to inform the citizens of Saguache of issues concerning the town. I will first cover some of the rules and regulations of local government. Then I will share how those rules and regulations have been applied to a recent situation of which there seems to be a great deal of misinformation being discussed in and around town. I intend to follow up with a second article that will cover the status of various projects that the town is either planning for or is currently undertaking.

Local Government

There are matters of which a member of a town board cannot speak publicly, specifically confidential personnel issues and what is said in an executive session.

Four trustees, as the majority of a seven-member board, can take control of a board. They can call for a special session at any time, put an item on the agenda, make a motion, can second that motion and, if any four trustees vote yes, that motion carries. An executive session can only occur if a motion is made, it is seconded, and a majority votes yes. A mayor can call for a special session and can put an item on an agenda. However, a mayor CANNOT make a motion and cannot make a second.

A mayor gets only one vote. When the mayor is not present within the town, the mayor pro-tem is the acting mayor. The board can choose another trustee to act as mayor in the absence of both the mayor and the mayor pro-tem.

Any member of a board of trustees, including the mayor, has access to legal advice, professional services, periodicals, other towns' mayors, trustees, council members, managers and administrators, clerks, state and federal agencies, insurance organizations, law books, videos, and institutions of higher learning. Additionally, there are numerous opportunities for education, training, networking, workshops, etc. These resources are available online, by telephone, hard-copy documents, and videos.

Within short drives of Saguache, training workshops, organization meetings and conferences are offered. The cost of these educational opportunities is, for the most part, covered by memberships and services the town already pays for, i.e. the town's insurance carrier CIRSA, the town attorney, and Colorado Municipal League (CML) membership. If a board member needs legal advice on any town matter, he/she has immediate access to several attorneys. If there is a need for other types of advice, board members have a wealth of resources available at their fingertips, at no expense to them.

Recent Events

Before delving into recent events, I would like the community to know that I have asked and received legal advice on what I can, and cannot, talk about. I know most of us would rather not have the legal stuff clutter our town issues. Unfortunately, it is the reality of local government which operates under the laws of the State of Colorado.

Why the preamble? Because many of the details of recent events fall into a category of issues which cannot be discussed openly. However, what can be shared with you follows.

The last Town of Saguache Board meeting occurred on July 11th. There was no board meeting on July 21, as was previously misstated by a number of sources. Between July 12 and July 19, I was out of town, most of that time out of state. Former Mayor Pro-tem Engquist was acting mayor. I did not return to my duties as mayor until the morning of July 20.

On July 17, Mayor Pro-tem Engquist contacted me by phone concerning a personnel issue. Several trustees were aware at that time of this matter. Instead of calling for legal advice, they waited for my return. Having just driven nearly 2000 miles, I was handed the matter in brief on the evening of July 19 and the full matter the morning of July 20.

Several trustees asked me to take a specific action. I did talk at length with three trustees that morning and did inform all three that I would take action. Immediately thereafter I contacted the town attorney for legal advice on the matter.

The legal advice I received was not to take any action without due process, meaning a thorough investigation of the situation. To do otherwise could subject the town to potential legal liability. As your mayor, it is my responsibility, along with the town attorney, to protect the town from such liabilities. It is the responsibility of every board member, including the mayor, to follow due process.

Due process of law is the cornerstone of American government. It is the rules, laws, and procedures by which government operates and is established in the 5th and 14th Amendments of the Constitution. Due process is based on two principals: truth-in-fact and fairness. Due process is often divided into two general headings: procedural and substantive. Procedural are the rules of due process. Substantive is due process in principal.

All elected officials take an oath to uphold and defend the Constitution. The Colorado Supreme Court says that whenever a local government board or official takes action, procedural due process is REQUIRED.

On July 20, I informed former Trustee Hanson of the requirement of due process. I told her it required investigation of the issue and gathering evidence, including interviews of various individuals.

Once an investigation of the matter was completed, the facts discovered would then be presented to the board of trustees for review. The town attorney would offer a legal opinion on any potential action. After that, the board could determine what course of action to take. If an action were to be taken, it would require a formal decision by the board.

On both July 20 and July 21, with the town attorney involved at every step, due process was followed. On July 21, I had two phone conversations with former Trustee Hansen. During the first conversation, I advised her of the resignation of the deputy clerk. I asked former Trustee Hanson to contact the town attorney for details concerning both the resignation and the due process in progress.

Sometime after the first conversation, I received information from Town Hall that a citizen had been in an accident and was at a Colorado Springs hospital. I contacted the citizen's family and was asked to go to the Springs.

The second conversation with former Trustee Hansen occurred as I was leaving town. I asked her if she had talked with the town attorney. She said that she had not. She stated that I had somehow forced the deputy clerk to resign. The fact is, I asked the deputy clerk not to resign, as did the town attorney. The deputy clerk's resignation was her choice alone.

Former Trustee Hanson then informed me she had resigned as trustee and to check my emails. That was the last time I spoke with her. I did look at my emails and found three resignations. I next traveled to Colorado Springs, during which time I was in communication with the citizen's family. In short, the citizen was released from the hospital, and I brought the citizen back to Saguache in the early hours of July 22. I saw the email of the fourth resignation at that time.

Why the resignations? I am puzzled. As stated previously, if four trustees object to anything, they can use their powers to call for a special session, put their issue on the agenda, make a motion, second it and out vote the other members as the majority.

If they need legal guidance on a decision, they can call either or both the town attorney and the attorney(s) for CIRSA. I know none of the trustees who resigned called the town attorney, let alone any other attorney available to the board. I know this because I asked. The two remaining trustees have talked with the town attorney.

My suggestion for the community is to ask the following questions of the four trustees who resigned:

1. Did you reach out to any of the numerous resources at your disposal?
2. Why did you abandon your responsibilities as elected officials?
3. Why, if the matter was important, did you not take action rather than waiting for the mayor to return and then the next day resign?

What Now?

I and the remaining board members, with the assistance of the town attorney, have consulted with CIRSA's attorneys, CML, and The Colorado Department of Local Affairs (DOLA) as to next steps. We have also sought the advice and guidance of administrators and clerks in other municipalities here in the Valley.

When a local governance board lacks a quorum (in our case 4 are needed), then the remaining board members must find and appoint trustees until a quorum is reached. Once the quorum is met, then the board must authorize the remaining seats to be filled in accordance with state statutes.

A trustee (not the mayor) is tasked with finding a citizen willing to be appointed and thereby obtain a quorum. Without a quorum, the board is very limited in what it can do, including having a meeting. There were two meetings scheduled, July 24 and August 1. Both had to be canceled due to a lack of a quorum. No decisions can be made by the board until a meeting can be held, except those which are "necessary."

The mayor can authorize certain things for the town to continue to operate. I did authorize, upon CIRSA and the town attorney's recommendation, that the town administrator find and fill the clerk position with an "Interim Town Clerk." The requirements were as follows: must be local, must have good accounting skills, and must have professional writing skills. The town administrator did hire someone last week who met all those requirements.

This position will last until a town clerk is hired and appointed by the board. The board must agree by vote to advertise for and follow procedure in hiring a town clerk. Since the town clerk's resignation in March, the board has been reluctant

to begin this process. It is my hope that once the board seats are filled, that this process can begin. The town's bills will continue to be paid. These bills can later be reviewed by the board. The only other matter I have authorized is the formal extension of the town's annual audit which was requested by the town's auditor, Pete Blair.

Moving Forward Takes a Team

We still have projects in motion. We still have statutory requirements to meet. We still have the daily operation of the town to handle. The participation of citizens in the process, by seeking out the facts and basing any action on that which is in the best interest of the town, are the traits of good local government. Citizens have a choice, by their actions, which path will be taken. The town can either be an environment of hatefulness, polarization, and stagnation, or it can be an environment of problem solving, teamwork, and securing the town's future.

Sincerely,

Greg Terrell, Mayor
Town of Saguache