

**BOARD OF TRUSTEES
TOWN OF WESTCLIFFE
MONDAY, DECEMBER 19, 2022
REGULAR MEETING**

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CALL TO ORDER

Trustee Snow called the meeting to order at 5:30 P.M.

ROLL CALL

The following members were present: Ms. Snow, Mr. Frickell, Mr. Nordyke, Mr. Wilhelm, and Mr. Mowry.

ABSENT: Mayor Wenke and Ms. Cole.

PLEDGE OF ALLEGIANCE

Trustee Snow led the Pledge of Allegiance.

OTHERS PRESENT

Tamra & Ed Adducci, Dan Laufenberg, Marta Minogue, Chuck, and Karen Jagow, Ben Lenth, Karen Foley, Kelsey King, Dave Schneider, Bob Fulton, Elliot Jackson, Caleb Patterson, and Kathy Reis. Via phone – Attorney Clay Buchner.

TREASURER’S REPORT

| REVENUE RECEIVED IN | | BALANCE OF ACCOUNTS |
|--|------------------|----------------------------|
| General Fund Checking: | \$ 108,906.17 | \$ 608,040.36 |
| CSafe-GF Core 11: | \$ 1,319.90 | \$ 427,777.34 |
| CSafe-3% Tabor Reserve: | \$ 137.04 | \$ 44,354.64 |
| CSafe-General Fund Reserve-14 | \$ 1,128.14 | \$ 365,610.42 |
| Municipal Court Checking: | \$ 0.00 | \$ 2,332.70 |
| Tennis Court Checking: | \$ 0.00 | \$ 25,178.70 |
| Conservation Trust Fund Checking: | \$ 6.93 | \$ 42,176.30 |
| Capital Fund Checking: | \$ 54,773.57 | \$ 676,457.80 |
| CSafe-CF Core 12: | \$ 688.36 | \$ 223,066.26 |
| Total C.D.’s plus interest: | \$ 157.71 | \$ 0.00 |

EXPENDITURES FOR NOVEMBER 2022:

| | | |
|---------------------------------|----|------------|
| GENERAL FUND: | \$ | 52,067.24 |
| MUNICIPAL COURT: | \$ | 0.00 |
| TENNIS COURT: | \$ | 0.00 |
| CONSERVATION TRUST FUND: | \$ | 0.00 |
| CAPITAL FUND: | \$ | 105,076.80 |

APPROVAL OF CONSENT AGENDA

- a. Approval of minutes
- b. Treasurer’s Report
- c. Approval of Bills

Mr. Mowry moved, and **Mr. Wilhelm** seconded to approve the consent agenda. Motion carried.

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OLD BUSINESS

a. Public Comment consideration of approving Ordinance NO. 7-2022 amending Title 5 Public Health and Safety, adding Chapter 8 “Meat Waste Disposal.”

Ed Adducci was concerned that the exposed meat and animal products were still happening. The owner has installed a fence completely around the area where the meat is brought in to keep prying eyes from seeing what goes on there. The blood is still being washed down the alley.

Mr. Adducci asked who the Code Enforcement Officer is, how the inspections will be done, and whether the business owner will be notified first. He was also concerned about the drain system. Trustee Snow responded that it would be the Town Manager is the Code Enforcement Officer, and an inspection would be at the discretion of the Town Manager on when it would happen and if it was called to our attention.

Trustee Snow asked Will Taylor if he was able to address all the issues. Will Taylor responded that they found sealed refillable barrels, but they are not here yet. It is taking a while to get them. He further said it would not take care of all the issues. We still have elk and transfers from the trailer to the building. The drippage cannot be sprayed back into the building. Currently, because of the way it is slopped toward the French drain.

Trustee Wilhelm inquired if a tarp could be used. Mr. Taylor replied that a tarp would not be enough for going back and forth. The majority of the blood gets left out in the field. There will still be residual blood that will be there during the transfer.

Mr. Taylor said the French drain at the end of his property needs to be redesigned. That is the biggest issue we have. That is the only drainage we have. How do you deal with transferring carcasses from the trailer to the building?

Trustee Snow stated that the sealed containers, per the ordinance, would take care of most of this. There is an existing ordinance that addresses drainage.

Trustee Mowry read into the record from Title 6, Chapter 1 Misdemeanors, Section H (3) Discharge of Nauseous Liquids:

It shall be unlawful to discharge out of or from, or permit to flow from any house or place, foul or nauseous liquid or substance of any kind whatsoever, into or upon any adjacent ground or lot, or into any street, alley or public place in the town of Westcliffe. (Ord. 25-1986, 10-7-1986)

Trustee Snow further stated that the Town might need to look at the drainage.

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OLD BUSINESS CONTINUED

Trustee Wilhelm suggested putting a catch basin in and pumping it into one of the barrels. Will Taylor responded that it would create a cesspool.

Trustee Frickell stated that we are looking at trying to solve a problem and yet trying to keep a business in business.

ACTION: **Mr. Mowry** moved, and **Mr. Frickell** seconded to approve Ordinance NO. 7-2022 amending Title 5 Public Health and Safety, adding Chapter 8 “Meat Waste Disposal.” Motion carried.

NEW BUSINESS

a. Discussion and consideration of transferring ownership of the Bluff Park from Colorado Open Lands to the Town.

Ben Lenth with Colorado Open Lands gave an overview of the request: There is a long-term partnership with the Town and San Isabel Land Protection Trust, which is now Colorado Open Lands. Bluff Park has split ownership. There is a management/lease agreement where the Town has assumed most of the management responsibilities.

Colorado Open Lands is a nonprofit that owns the middle 5.3 acres of the park. Upon receipt in 2015, we donated a Conservation Easement at the time from San Isabel Land Protection Trust to Colorado Open Lands to permanently preserve the open space that stripped off all the development rights. We worked together to purchase Summit Park, which became part of the park. The management agreement includes the entire property, the Chloride Gulch that the Town owns, the middle area owned by the Land Trust, and Summit Park.

Last year San Isabel Land Trust merged with Colorado Open Lands. This is one entity now, which means that on this property, we have both the fee ownership and the conservation easement that protects that property. That is out of compliance with the best practices for Land Trusts. The whole strength of a conservation easement is that a third party holds the development rights and trust. We are tasked with divesting one or the other interest, either the fee interest of the conservation easement.

Colorado Open Lands would like to propose to the Town a trade, wherein Colorado Open Lands would donate to the Town the free-of-charge the 5.3-acre parcel, which the Conservation Easement encumbers. The Conservation Easement would stay in place; we ask then, in exchange, the entire property be owned by the Town, and in exchange, we would ask that the Conservation Easement be extended over also Chloride Gulch and the Summit Park parcel. The result would be one single

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NEW BUSINESS CONTINUED

ownership of the entire park of 10.25 acres by the Town, a single Conservation Easement on the same acreage.

The Conservation Easement is not a black-and-white thing; it would allow those recreational structures, such as the Smokey Jack Observatory, or other things that would be determined in the future as of interest. On the northern end of the property, we currently own, there is an amphitheater, and there are allowances for additional structures. This changes nothing; it would intend to accommodate the long-term goals of everyone in the community who is involved with the park for public use. It would get Colorado Open Lands in compliance and simplify the ownership and management.

We would offer to lead all meetings to discuss this and draft the terms of the easement and other processes. We have a restricted fund for the Bluff that we can use to pay for this process. We ask that the Town covers its own expenses. We would propose that the restricted funds go to the Community Foundation, which has a standing fund dedicated to the Bluff with an advisory committee to manage those funds.

This is a proposal to start the process. It is not to approve a transaction or anything detailed. This is to open a series of meetings and discussions to work together on.

We need to make sure Dark Skies have what they need, for example, and other things needed while preserving the open views and maintaining its public access.

Trustee Snow asked what the restrictions would be for structures and what the process would be for approval, for example, the Barnes Memorial.

Mr. Lenth replied. An existing Conservation Easement essentially says the lawn is a protected area for the view shed area, and no structures are allowed. However, there are some allowances on the north side and a little on the south side to give room for future structures; on the Town lots, or in the case of the amphitheater on the north side; there is an envelope of sorts that will allow that with some limits.

We want the Conservation Easement to be fully approved for larger items contemplated if needed, so they are already part of it as allowed uses in the easement. The terms of the easement are intended to be permanent and clear. This is the time to look closely at these areas and see what structures might be needed with the assumption that they are to the north and south.

Clerk Reis asked regarding the gifting of the portion needed for the project. The construction project is slated to start in the summer. Mr. Lenth estimated that the quickest time it could be completed would be by the summer. Clerk Reis will contact CDOT for direction.

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NEW BUSINESS CONTINUED

Mr. Lenth will put together a letter of intent and tasks of things we need to do. The Board of Trustees all agreed to move forward.

b. Public Comment and consideration of approving Ordinance NO. 8-2022 Plastic Pollution Reduce Reduction Act and update.

Clerk Reis gave an update on what the two Towns have done. Ileen put together flyers for the affected businesses for their doors and postcards, which will be mailed to all households in the county as an education piece. We put frequently asked questions on our websites, and a public announcement has been put in the Sentinel and should go in the Tribune. In Westcliffe, the stores that have to comply are Lowe's, Valley Ace, Napa, and JR's Fuel Stop. JR's and Napa may decide not to provide bags at all.

The Town has to collect the money, and we keep 60%, and the stores retain 40% of the .10 cents per bag. The Town is required by state statute to administrate the program, enforcement, and education of the Plastic Pollution Reduction Act.

The stores are required to collect the .10 per bag on January 1st, 2023, and remit to the Town quarterly; however, in the statute, the first required remittance date is April 2024. We are asking that they remit quarterly in 2023.

The ordinance is to say we are complying with the state statute and a clause in it allowing the small stores to opt-in. Currently, they can't opt in at this point. The attorney said a small store can opt-in and then opt out if they choose if this ordinance is adopted.

As part of this, we would like to purchase reusable bags to distribute two bags per household county-wide. The two Towns will cost share this and the postcards. We are asking the County Commissioners to share the cost of the bags. Eight thousand bags will cost \$8,000.00. We haven't determined how the bag giveaway event will be done.

We developed a remittance form for each store affected.

After further discussion, the board agreed to move forward with purchasing the bags and postcards in conjunction with Silver Cliff.

ACTION: **Mr. Mowry** moved, and **Mr. Frickell** seconded to approve Ordinance NO. 8-2022 Plastic Pollution Reduce Reduction Act. Motion carried.

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NEW BUSINESS CONTINUED

c. Consideration of a request to amend the Town’s Non-DOT Drug and Alcohol policy.

The main change was that a clause was added regarding medical marijuana and if an employee may be dismissed if testing positive. Do we need to add something that “may be subject to disciplinary action or dismissed?” Clay didn’t think that needed to be added; it is covered in the policy. All the language that said “must” was changed to “may” in the policy.

ACTION: Mr. Frickell moved, and Mr. Mowry seconded to approve amending the Town’s Non-DOT Drug and Alcohol policy. Motion carried.
Nay – Mr. Nordyke.

d. Review the proposed Title 10 revision and consideration of drafting an ordinance.

Trustee Snow said that due to not having the internet to review each item and Trustee Wilhelm asked for clarification and had questions. Trustee Snow asked that this goes back to the Planning Commission and asked Trustee Wilhelm to attend the meeting.

e. Consideration of changing the regular monthly meeting date.

There is a conflict in January and February with the holiday being on Monday; we could change the meeting to Tuesday that same week for those months or change the meeting date for the full year. There are many instances where there is a holiday on Monday. Changing the regular meeting would prevent the need to reschedule meetings from confusing the public.

ACTION: Mr. Frickell moved, and Mr. Nordyke seconded to approve amending our ordinance by changing the monthly meeting date to the 3rd Tuesday of each month starting in 2023. Motion carried.

BOARD OF ADJUSTMENTS

Trustee Snow closed the regular meeting to move into the Board of Adjustments at 6:03.

a. Public Hearing of an appeal for a building permit at 302 S 2nd Street.

The Building Official, Dwight Johns provided the background of events:

Before Dwight started here, Gabriel issued the building permit to put a roof on an existing wood shed. The property owner went through all the steps and applied for a building permit, and Gabriel approved it; I believe he went to the site and looked at where they were going to put it. They hired a contractor to help them build it. The

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BOARD OF ADJUSTMENTS CONTINUED

contractor started the roof, and the building of the roof was a two-day process. Between days one and two, a citizen noticed the roof of the building was past the fence line and was in the public right of way. Mr. Johns told them that the Town was worried about the liability of someone walking by and hitting their head, and they should also be concerned about the liability. They agreed and immediately contacted their contractor to have the overhang removed, which was in the right of way. The only other problem we are dealing with is that the existing wood shed that they put the roof on was not in compliance with the Town's set back ordinance. The Town should not have given permission to build in the setbacks. The building has four posts in the ground, cemented in, buried below the frost line. It previously had a slopped roof so that you couldn't see it. After putting the gable roof on it, it went to being 8' tall.

The property owner Dan Laufenberg explained it was a wood rack, not even a shed. It was two existing walls that were not attached to the fence. It wasn't visible; it had been there for over ten years. They took the existing roof off and added to it with the gable roof. The roof was changed because he kept hitting his head on it.

Trustee Snow summarized the situation: you did everything the Town asked you to do in order to build. You brought in plans, we approved it, and we asked you to correct the overhang, which you did.

We are only here because of the setbacks. The structure has been there for ten years. The setbacks haven't changed since you applied for the building permit.

Trustee Mowry inquired if they had provided a diagram, The owner replied yes.

b. Consideration of approving an appeal for a building permit at 302 S 2nd Street.

Trustee Snow stated this is on us, you did everything we asked you to do, and legally we could ask you to change it. The original structure had been there for over ten years, and the Town Manager at that time had approved the building permit for the renovations.

ACTION: Mr. Wilhelm moved, and Mr. Nordyke seconded to approve the appeal for the building permit at 302 S. 2nd Street. Motion carried.

Trustee Snow closed the Board of Adjustments at 6:12 p.m. and returned to the regular meeting.

EXECUTIVE SESSION

Executive Session for the purpose of a personnel matter under C.R.S. Section 24-6-402(2) (f)(I) regarding possible bonuses.

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EXECUTIVE SESSION CONTINUED

ACTION: **Mr. Nordyke** moved, and **Mr. Frickell** seconded to approve to go into Executive Session for the purpose of a personnel matter under C.R.S. Section 24-6-402(2) (f)(I) to interview candidates regarding possible bonuses. Motion carried.

EXECUTIVE SESSION

At 7:46 p.m., the Special Meeting was recessed. Executive Session was convened at 7:47 p.m.

At 6:59 p.m., Trustee Snow reconvened the special meeting and announced that the Executive Session had been concluded. He stated that in addition to himself, the participants in the Executive Session were Mr. Frickell, Mr. Wilhelm, Mr. Mowry, Mr. Nordyke, and Caleb Patterson. For the record, Trustee Snow asked that if any person participating in the Executive Session who believed that any substantial discussion of any matters not included in the motion to go into Executive session occurred during the Executive Session in violation of the Open Meetings Law, to state his or her concerns for the record.

ACTION: **Mr. Wilhelm** and Mr. Nordyke moved to give all employees a \$500.00 bonus for the end of the year. Motion carried.

STAFF & COMMITTEE REPORTS

None

Mr. Wilhelm moved, and **Mr. Mowry** seconded to adjourn. Motion carried.

ADJOURN

Recorded by:
Kathy Reis, CMC
Town Clerk