



Village of Taos Ski Valley
PO Box 100, 7 Firehouse Road, Taos Ski Valley, NM 87525
(575) 776-8220 (575) 776-1145 Fax
E-mail: vtsv@vtsv.org Website: www.vtsv.org

**VILLAGE COUNCIL SPECIAL MEETING
DRAFT MINUTES
SNAKEDANCE CONDOMINIUMS
HONDO RESTAURANT
TAOS SKI VALLEY, NEW MEXICO
THURSDAY, JUNE 29, 2017, 2:00 P.M.**

1. CALL TO ORDER & NOTICE OF MEETING

The special meeting of the Village of Taos Ski Valley Council was called to order by Mayor Pro Tem Wittman at 2:05 p.m. The notice of the meeting was properly posted.

2. ROLL CALL

Ann Wooldridge, Village Clerk, called the role and a quorum was present.

Governing Body Present

Mayor Pro Tem Tom Wittman
Councilor Kathy Bennett (by phone)
Councilor Christof Brownell
Councilor Chris Stagg
Mayor Neal King (by phone)

Village Staff Present

Administrator Mark Fratrack
Clerk Ann Wooldridge
Finance Director Nancy Grabowski
Building Inspector Rich Willson
Building & Construction Director Bill Jones
Police Chief Andy Bilardello
Public Works Director Ray Keen
Public Works Superintendent Olaf Mingo
Administrative Assistant Renee Romero
Administrative Assistant Ruth Martin
Attorney Dennis Romero

3. APPROVAL OF THE AGENDA

MOTION: To approve the agenda as presented

Motion: Councilor Stagg

Second: Councilor Bennett

Passed: 4-0

4. OLD BUSINESS

A. Discussion and Recommendation on 250,000 gallon Kachina Water Tank Relocation Proposed by TSVI, or Direction on Project Initiation at Original Location With or Without Easement Approval
Administrator Fratrack made a presentation touching on the Village's concerns with relocating the Kachina Water Tank, the impacts with the delay of the project, and possible legal concerns. He cited the following benefits of remaining at the existing site: gravity-fed distribution system, a concrete tank with less maintenance, less visibility with an underground tank, a long-standing plan, no influence on Phoenix Spring, and the infrastructure is already in place. Fratrack said that relocation of the tank would involve several drawbacks: capital costs for a required pump station, and the pump would have operations and maintenance costs, there would be possible reimbursement required of the Water Trust Board funding received so far by the Village, there would be a visual impact of an above-ground tank, and there would be

drinking water security requirements requiring fencing because of the proximity to the public. The tank at the new location could be underground, but then there is concern for excavating around the Phoenix Spring. He said that there could be potential loss of existing Water Trust Board funding, a possible loss of the existing land, a potential loss of future Water Trust Board funding, and a potential cost associated with delaying the project as the current bid and award would need to be re-done. Administrator Fratrack suggested that in order for the Village to consider relocating the tank, certain items would be required: an escrow account for funding the tank, reimbursement to the Village of funding that the Village would need to reimburse to the Water Trust Board, a capital contribution for a pump station, as well as operation and maintenance costs for the pump station, dedication to the Village of the Phoenix Spring box and the Chlorination sites (these are currently easements by TSVI to the Village), and funding assistance for the additional design cost for engineering, surveying, geotechnical, etc., as well as Village staff costs. Fratrack mentioned a recent letter from the New Mexico Rural Water Association's Source Water Protection Specialist to the Village urging the Village to protect its water source, discouraging any development within 200 feet of a spring because of the risks it can have for the spring. Ideally, development at least 500 feet from a water source is recommended, it said. The letter also stated that the Village currently uses a groundwater system with excellent water quality. Development near the spring might negatively affect water quality or quantity.

Attorney Romero urged the Council to look at everything that is in place currently and to consider that the current tank site has been proposed since 1973.

Peter Talty, with TSVI, said that not only the Village, but also TSVI, is interested in maintaining the high quality of the Village's drinking water. He explained that in 2011 when the tank site was donated to the Village by TSVI, the developer only owned 17 acres in Kachina, and now owns an additional 40 acres. He said that the current water tank project site has grown from a 0.4 temporary construction easement to a 1.17 temporary construction easement. In addition, the Village would need to work with the Forest Service to provide extensive relocation and modification of the William's Lake Trail, if using the existing site. Talty said that the alternative proposed site would allow for using the existing road system for construction and maintenance, would create a smaller construction and disturbance area, would have no impacts on the William's Lake Trail, and would reduce construction costs by 50% by building an above-ground tank. He said that TSVI would extend the easement on Tract A for the William's Lake Trail. Talty also said that it would be beneficial to the Village to consolidate its infrastructure in one area, for conservation of resources, energy, and manpower. The Village would have a consolidated municipal water system in a single location with the proposed new site, with land deeded to the Village by TSVI. Talty said that construction best management practices would be followed in placing the tank at the new site, with the primary objective being to protect the quantity and quality of the Phoenix Spring. TSVI would follow specifications in a Storm Water Pollution Prevention Plan (SWPPP), even though not required. Site-specific best management practices would be developed for all rolling stock and machinery to insure fuel and fluids are properly managed, and all vehicles would be inspected for fluid leaks prior to visiting the tank site, with records maintained. Once construction was completed, only maintenance vehicles would have access to the tank. He explained that an above-ground steel tank has a lifetime of more than 100 years if properly maintained. Tank maintenance for the first 50 years requires only that the tank be cleaned and inspected every three years, at a cost of \$4,800. The initial inspection and cleaning with any repairs is included in the cost of the tank. The proposed tank would be at an elevation of 10,362 feet, as opposed to the old site at 10,499 feet. He said that both tanks would require water to be pumped up to it from the Phoenix Spring, and that both tanks would have a gravity-fed distribution system. Additionally, he said that TSVI would refund all money expended by the Village on the current project, and would hold the Village harmless for any additional money, and would give the land for the infrastructure area to the Village. He said that there are no specific plans for the current site, if it is abandoned for the water tank.

Mr. Talty asked that if the water pressure would be adequate, if the water quality stayed the same, and if the Village were to be held harmless for any funds, then the Council should direct staff to work out a plan with TSVI. He also noted that TSVI would like for the Village to get on the track of executing a master plan for Kachina Village.

Roger Pattison said that some land that would be under-served by water pressure with the new tank is zoned residential. Other residences that may be planned for above 10,362 feet are hypothetical.

Brain Rupp, with Shopoff Realty Investments, made a presentation to the Council, and explained that his group has made a significant investment in buying 70 acres in Kachina, and that they are proposing making another significant investment by developing the property. He said that their property is beneficiary to a

Settlement Agreement between the Village and the Pattison Trust, dated May 28, 2002, which is recorded with the land and noted on their Title Insurance Policy. The Agreement states that the Village is to provide water service to the Property in perpetuity. In addition, the Village is responsible for the cost to improve the water pressure up to 40 psi, to serve the proposed Block 4. Mr. Rupp referenced the Village's water master plan map which shows the "blue zone" area that was supposed to be served by the new Kachina water tank, but which the new tank would not serve at the zone's highest elevations, without a pump. Mr. Rupp commented that the Village has a sure thing at the current tank location, and asked why there would be a desire to change that. He said that using a pump for fighting fires is unreliable. Building Inspector Rich Willson noted that any multi-family units built would be required to have sprinklers installed, by code. Peter Talty asked whether the Village would be responsible to provide water, even if someone wanted to build at the highest elevations in the Village. Talty said that the proposed tank would serve all of the lands that are currently zoned for development.

David Norden, TSVI President, commented that all parties' goals and objectives are perfectly aligned. He asked the Council to weigh in on the benefits to the Village of the new location, including the dedication of the infiltration galley parcel, and the lack of impact on the William's Lake Trail. He asked that the Village and TSVI work together to satisfy the requirements for the Village's water system.

Lauren Meyer, whose family owns a cabin, asked if the property owners would be affected in any way, for example in an increase in the Village's water rates. That would occur most likely only if the Village incurred a large financial burden, Mayor Pro Tem Wittman replied..

MOTION: To direct staff to work with TSVI on a location that maintains water pressure requirements, water quality requirements, and insures that the Village be held harmless for any monetary expenditure, and present to the Council at the August 8, 2017 meeting.

Motion: Councilor Bennett

Second: Councilor Brownell

Discussion continued. Don Schieber, representing Shopoff Realty Investments, said that there is no reason to wait for construction of this project at the current site. The location wouldn't have any site disturbance in the long run because the tank would be underground. He would not recommend taking any chance of impairing the Phoenix Spring by building in that vicinity.

Attorney for Shopoff Realty Investments, Jason Cline, had presented a letter to the Council stating that the Village could be seen to be contractually bound to build the current water tank at the current site. He said that the work that's been done thus far constitutes a contract. By not building the tank now, it could be seen as an inverse taking of their land if the Village did not fulfill the agreement to provide adequate water pressure to the entire blue zone. He said that the Shopoff group had made significant investment into the area in reliance on the Village's actions, and would pursue legal action if the Village did not follow through with the current tank project.

Kachina property owner John Halley had also presented a letter to the Council, and said that plans for this high zone tank have been revised and delayed many times over the years. He believes that with time-sensitive grant funding having been secured, and plans having been made for the current site, that the Council should proceed with the current project. He said that a delay would cause material harm to some Kachina stakeholders who have relied on the Village's commitment to finalize and build the approved high zone tank.

Administrator Fratrack asked if the motion included the provision that staff suspend work on the current project and location. Mayor Pro Tem answered no.

Councilor Brownell said that perhaps a third location for the tank that would work well for all parties concerned could be found.

Mayor Pro Tem Wittman called for a vote.

Passed: 4-0

B. Consideration to Initiate Condemnation Procedures for the Relocation and Construction of Ernie Blake Road

Administrator Fratrack explained that Ernie Blake Road is seen as a vital road infrastructure upgrade that needs to take place to benefit the flow of traffic in and out of the Core area. As the alignment is now, and as the road is currently constructed, the road does not suffice for this purpose. The Village has received appraisals for the properties in question that would allow the Village to relocate and construct Ernie Blake Road, which would meet the needs of the Village and overall community. The Mayor, a Council member, and the Village Administrator had a preliminary meeting and negotiation with the owners/managers of the two largest parcels of the properties that would be required to be obtained for Ernie Blake Road realignment and upgrade. Fratrack explained that although the Council had discussed proceeding with the

Ann M. Wooldridge, Village Clerk