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VILLAGE COUNCIL REGULAR MEETING DRAFT MINUTES EDELWEISS LODGE CLUB ROOM TAOS SKI VALLEY, NEW MEXICO TUESDAY, DECEMBER 13, 2016, 2:00 P.M.

1. CALL TO ORDER & NOTICE OF MEETING

The regular meeting of the Village of Taos Ski Valley Council was called to order by Mayor King at 2:00 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 Neal King Councilor Kathy Bennett Councilor Christof Brownell Councilor Chris Stagg Councilor Tom Wittman, Mayor Pro Tem

Staff present:

Village Administrator Mark Fratrick Village Clerk Ann Wooldridge Finance Director Nancy Grabowski Public Works Director Ray Keen Police Chief Andrew Bilardello Building & Construction Director Bill Jones Planner Adrienne Anderson Administrative Assistant Renee Romero Administrative Assistant Ruth Martin Village Attorney Dennis Romero

3. APPROVAL OF THE AGENDA MOTION: To approve the agenda as written Motion: Councilor Wittman Second: Councilor Stagg Passed: 4-0

- 4. APPROVAL OF THE MINUTES OF THE NOVEMBER 8, 2016 REGULAR VILLAGE COUNCIL MEETING MOTION: To approve the minutes as presented Motion: Councilor Stagg Second: Councilor Wittman Passed: 4-0
- 5. CITIZEN'S FORUM no one spoke

6. FINANCIAL REPORTS

Director Grabowski reported that GRT remitted to the Village in November was \$41,995.22 compared to \$197,397.64 for November last year. Total year to date is \$447,559.24 versus last year's \$379,109.95. The TIDD did not receive a distribution in November for September GRT. Lodger's tax collections were \$4,731.31 versus \$4,197.87 for last year. Totals year to date are \$41,097.13 versus last year's \$44,922.68.

The Village has now received \$181,600 in Clean Water State Revolving Fund reimbursements and \$104,600 in Water Trust Board reimbursements in FY16.

7. COMMITTEE REPORTS

A. Planning and Zoning Commission – P&Z met on Monday, December 5, 2016 at 1:00 p.m. at the Edelweiss Lodge Club Room. Commission Chair Wittman reported on the following agenda items:

• Application for Variance for Front and Side-Yard Setbacks on Lot 6, Block F by Kent Kiehl. An addition is being added to this residence, which is situated on a very steep lot. Staff recommended approval of a variance to the front setback from 25 feet to 9 feet and the side setback from 20 feet to 14 feet. A public hearing was held, no one spoke against granting the variance, and it was approved by the Commission.

• Planner Anderson reported that she is working towards revising and completing the comprehensive plan in the first quarter of 2017.

• Improvement of upper portion of the JR Trail will be spearheaded by TSV Inc., as they are the permit holder of the land with the U.S. Forest Service. The Village of Taos Ski Valley will afterwards become involved in restoration of the lower part of the trail.

• Director Jones is getting started on enforcement of the new sign code requirements.

• The Commissioners drew lots for reinstatement of their terms, with Commissioners Wittman, Nichols, and Woodard starting one-year terms as of January 1, 2017, and Commissioners Caldwell, Stagg, Bender, and Duffy starting two-year terms on the same date. A motion was passed to re-elect Commissioner Wittman as Chairperson of the Commission.

The next P&Z meeting is scheduled for Monday, January 9, 2017 at 1:00 p.m. at the Edelweiss Lodge Club Room. (Note: This meeting was later cancelled.) The P&Z meeting was adjourned at 2:10 p.m.

B. Public Safety Committee – The Public Safety Committee did not meet in December. The next meeting will take place on January 9, 2017.

C. Firewise Community Board of Directors - The Firewise Community Board of Directors did not meet in December. The next meeting will take place on January 9, 2017.

D. Parks & Recreation Committee - no report

E. Lodgers' Tax Advisory Board – Councilor Stagg announced that the Board would be meeting in the near future concerning eligible lodgers' tax expenditures.

8. **REGIONAL REPORTS**

Councilor Bennett reported on activity from the Landfill Board and the Enchanted Circle meeting. The Landfill plans to buy a drone to use for better surveillance of the pods. Representative Roberto Gonzales will be attending the next Enchanted Circle meeting.

The next Enchanted Circle meeting and Landfill Board meeting will take place on December 15, 2016.

9. MAYOR'S REPORT

A. Consideration to Appoint Virgil Vigil as a Police Officer for the Village of Taos Ski ValleyMOTION: To appoint Virgil Vigil as a Police Officer for the Village of Taos Ski ValleyMotion: Councilor StaggSecond: Councilor BrownellPassed: 4-0

B. Consideration to Approve Planning & Zoning Commission Appointments Commission Chair Wittman announced that at the December P&Z meeting, Commissioners drew lots for reinstatement of their terms. Commissioners Wittman, Nichols, and Woodard will start one-year terms as of January 1, 2017, and Commissioners Caldwell, Stagg, Bender, and Duffy will start two-year terms on the same date.

MOTION: To approve the slate of P&Z Commission appointments Motion: Councilor Wittman Second: Councilor Bennett

10. STAFF REPORTS

Mark Fratrick, Village Administrator reported on ongoing projects:

Passed: 4-0

- Townsite Act Mayor King, Red Tail Surveying, and Administrator Fratrick met with the Forest Service. There were a few surveying questions to be discussed. The Forest Service informed them that they estimate the process moving forward will take six months to a year to complete.
- Taos Mountain Lodge Administrator Fratrick met with the NM DOT District Engineer concerning the placement of holding tanks, and also talked with them about the longer term vision of water and sewer lines to the Amizette area. The Village water master plan includes provisions for line extensions to Amizette. The variance that the Village has with the NM Environment Department for the septic system is for a period of ten years.
- Kachina Water Tank No change
- WWTP Administrator Fratrick will be getting with the SE Group to discuss feedback received from the scoping meeting, and the process and timeline moving forward.
- Parks and Recreation TSVI will be meeting with the Village and Parks and Recreation Committee towards the end of the month to discuss the JR Trail plan.
- WWTP Financing Options Administrator Fratrick has been discussing financing options for the WWTP upgrade with Brad Angst of G.K. Baum & Company (GKB). There are a myriad of products to choose from, and to possibly blend, to finance the project, such as CWSRF, USDA, GO Bonds, Hold Harmless GRT, to name a few. Staff is suggesting that a workshop be held to walk through the different financing products available. The date GKB and Administrator Fratrick would like to suggest is Wednesday, December 21, 2016.
- Ernie Blake Road A request for proposals has been advertised for appraisal services regarding the land that will need to be exchanged and/or purchased in connection with the road redesign.

Department Briefs

• **Department of Public Safety Update.** Police Chief Bilardello reported on November activity: (26) Hours of Traffic Enforcement, (3) Traffic Stops, (2) Written Warnings, (1) Verbal Warning, (2) Residential Alarms, (1) Criminal Damage to Property, (1) Welfare Check, and (14) Parking Citations. Fire/EMS: (0), SAR: (0) Search and Rescue Mission –suspended.

Chief Bilardello also reported that he is continuing work on the Department of Public Safety policy manual. Officer Vigil has started already and knows many people as he previously worked for the Town of Taos and Taos Pueblo. Chief Bilardello said that the officers will start conducting more patrolling on foot. The trailer which houses the police department is undersized and inadequate. When purchased fifteen years ago, the plan was for the building to be a temporary space for the department. Bilardello will be looking for a new building to be placed in the same location. He said that the upstairs of the Firehouse would be difficult to use because of the potential trouble of handling prisoners up the long stairs, and the Taos Mountain Lodge is too far down the highway for timely response by officers.

• Public Works Update: Director Keen reported that a new snow blower has arrived.

11. OLD BUSINESS

A. Consideration to Approve <u>Resolution No. 2017-321</u> Regarding Ratification of the Vacation and Relocation of Portions of Emma Street and Gusdorf Street within Amizette

Attorney Romero reported that he and the attorney for the other party agreed to delay for another month. **MOTION: To postpone indefinitely**

Motion: Councilor StaggSecond: Councilor WittmanPassed: 4-0

B. Consideration to Approve Amended and Restated Master Development Agreement (MDA) adopted by the <u>Amended and Restated Resolution No. 2015-275</u> Approving the Application for Formation of the Village of Taos Ski Valley (VTSV) Tax Increment Development District (TIDD), etc.

As part of the VTSV TIDD formation, an MDA was adopted through Amended and Restated Resolution No. 2015-275. The applicant, which is Taos Ski Valley, Inc. as agent for Twining Development, LLC and Santander Holdings, LLC, has brought forward an updated and amended MDA.

Chaz Rockey, speaking on behalf of TSVI, reported that some misinformation had been spreading that there was to be a vote on the formation of a Public Infrastructure District (PID) at this meeting. No such item is up for a vote today. He said that TSVI prefers not to form a PID, but that application for formation of a PID may be considered at some point, in order to fund the installation of natural gas lines throughout the Village. The assessment that would be levied if a PID were to be formed would be a small portion of the discount that owners would realize from hooking up to natural gas, Rockey said. The PID levy would be outlined at the time

of a PID formation. The formation process would be similar to the TIDD formation, with the Village Council voting on an application, followed by an election of landowners and registered voters, with a 75% vote in the affirmative being required to successfully form the PID.

Mr. Rockey outlined the five main changes in the amended document: 1. it allows for a more cost-efficient way to issue bonds, using a master indenture agreement; 2. it allows for a PID, if formed, to pay for a project that had previously been dedicated to the Village; the natural gas line, for example; 3. it allows for further improvement of projects that had already been dedicated to the Village; the retention pond or Sutton Place being examples; 4. it contains an updated finance plan with more realistic numbers; and 5. it contains maintenance standards for the upkeep of Sutton Place.

Discussion took place on the revised MDA, and specifically on the potential of a PID being formed in the Village of Taos Ski Valley. Some citizens spoke up to say that they feel many people are not in favor of a PID, unlike a TIDD. They noted that there is a lot of language in the revised MDA about a PID, and voiced concern that a PID could be used for levies for infrastructure besides the natural gas lines. There was a suggestion for a workshop to be held on the revised MDA.

Mr. Rockey explained that the intention of the MDA is to formalize the relationship between the TIDD, VTSV, TSVI, and a PID, if formed. TSVI would be the largest assessed entity if a levy were assessed. Formation of a PID would not occur without many public meetings. He said that no one would pay a levy on a benefit that they didn't receive. It is possible that a PID would not need to be formed. Mr. Rockey explained that the calculations for a PID are difficult due to estimating the benefit of the public infrastructure.

Concerning the dedication of Sutton Place to the Village, Mr. Rockey said that this would not take place until all of the parties were comfortable with the process. He said that the standards are set high for maintaining Sutton Place in the MDA, so that no matter who ends up being responsible for the maintenance, it will be done well. The cost of maintaining Sutton Place and the plaza area are only estimated at this time.

MOTION: To postpone Approval of the Amended and Restated Master Development Agreement (MDA) adopted by the Amended and Restated Resolution No. 2015-275 Approving the Application for Formation of the Village of Taos Ski Valley (VTSV) Tax Increment Development District (TIDD), etc. Second: Councilor Bennett **Motion: Councilor Brownell** Discussion followed.

AMENDED MOTION: To postpone Approval of the Amended and Restated Master Development Agreement (MDA) adopted by the Amended and Restated Resolution No. 2015-275 Approving the Application for Formation of the Village of Taos Ski Valley (VTSV) Tax Increment Development District (TIDD), etc. and hold a workshop on the MDA and possible PID Formation

Motion: Councilor Brownell Second: Councilor Bennett Failed: 2-3 (Councilors Bennett and Brownell voting for, Councilors Stagg and Wittman voting against, and Mayor King voting against.)

MOTION: To Approve the Amended and Restated Master Development Agreement (MDA) adopted by the Amended and Restated Resolution No. 2015-275 Approving the Application for Formation of the Village of Taos Ski Valley (VTSV) Tax Increment Development District (TIDD), etc.

Motion: Councilor Wittman Second: Councilor Stagg

Councilor Brownell asked whether Councilor Stagg would be recusing himself from the vote. The vote was called. Failed: 2-3 (Councilors Stagg

and Wittman voting for, Councilors Bennett and Brownell voting against, and Mayor King voting against.)

C. Consideration to Approve entering into a Snowmelt Boiler System Agreement with Parcel G Development, LLC and/or The Blake Hotel Holdings, LLC, and Parcel G Condominium Association, Inc.

MOTION: To remove this item from the table

Motion: Councilor Wittman Second: Councilor Bennett Passed: 4-0 Since the same boiler system will service The Blake, plaza, and sidewalks, the developer is requesting that the Village enter into a "Boiler Agreement". Costs for any maintenance and upkeep, and also natural gas used, will be allocated depending on Village dedicated area usage and the developer will then bill the Village for the allocated costs. The Village-owned portion is metered separately. The estimated first year cost for the public area is \$3,000, of which the Village would pay half. If the cost is higher, TSVI will be eager to get the problem solved. The snowmelt system is moisture-activated as well as temperature-activated. Chaz Rockey said that TSVI is working on getting the kinks out of the new system. TSVI is working with Kit Carson to urge installation of the conductor necessary for the underground electric lines up State Road 150 which would be a

big step forward for reducing electrical outages. There were some concerns about the system not being on a generator, as well as concerns about the ice flow problem that seems to be occurring in front of the Snakedance. MOTION: To postpone approval of entering into a Snowmelt Boiler System Agreement with Parcel G Development, LLC and/or The Blake Hotel Holdings, LLC, and Parcel G Condominium Association, Inc. Motion: Councilor Wittman Second: Councilor Bennett Passed: 4-0

D. Discussion and approval of an Interim Maintenance Service Agreement with Taos Ski Valley, Inc. for Core Area for the predetermined public spaces (plaza areas and sidewalks), which would allow time to publish and assess requests for proposals (RFP), and then award a contract for a Maintenance Service Agreement for the public spaces in the Core Area

MOTION: To remove this item from the table					
Motion: Councilor Wittman	Second: Councilor Bennett	Passed: 4-0			
An agreement is unnecessary until the dedication of Sutton Place occurs.					
MOTION: To postpone indefinitely approval of an Interim Maintenance Service Agreement with Taos					
Ski Valley, Inc.					
Motion: Councilor Bennett	Second: Councilor Wittman	Passed: 4-0			

12. NEW BUSINESS

A. Consideration to Approve Natural Gas Line Improvements and Related Portions of Underground Trench Improvements Dedication, Bill of Sale, Assignment of Permit Rights and Agreement, from Taos Ski Valley, Inc. to the Village of Taos Ski Valley

MOTION: To postpone Approval of Natural Gas Line Improvements and Related Portions of Underground Trench Improvements Dedication from Taos Ski Valley, Inc. to the Village of Taos Ski Valley

Motion: Councilor BrownellSecond: Councilor BennettPassed: 4-0There will be a need to move ahead with this dedication in the near future, according to Mr. Rockey, in order to
take advantage of the NM Gas credits and provide natural gas throughout the Village.

B. Consideration to Approve Natural Gas Line Improvements and Related Portions of Underground Trench Improvements Assignment of Infrastructure and Permit Rights, from the Village of Taos Ski Valley to NM Gas Company

MOTION: To postpone Approval of Natural Gas Line Improvements and Related Portions of Underground Trench Improvements Dedication from the Village of Taos Ski Valley to NM Gas Company

Motion: Councilor Wittman Second: Councilor Brownell Passed: 4-0	Motion: Councilor Wittman	Second: Councilor Brownell	Passed: 4-0
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C. Consideration to Approve Final Design Service and Descriptions for the Ernie Blake Road Improvements, Amendment # 1 to Task Order #16 with FEI Engineers for \$87,968.40

One of the steps for the Ernie Blake Road realignment is to get the 100% Final Design completed. FEI Engineers have proposed an amendment to their contract which outlines a scope of work to complete the final design. This is a necessary step if the Village would like to continue to pursue the improvements to Ernie Blake Road that were outlined at the workshop and were previously approved by council. TSVI will become more involved in the project, as this is reimbursable to the developer by the TIDD.

MOTION: To Approve Final Design Service and Descriptions for the Ernie Blake Road Improvements,Amendment # 1 to Task Order #16 with FEI Engineers for \$87,968.40Motion: Councilor WittmanSecond: Councilor BennettPassed: 4-0

D. Discussion and Approval of Memorandum of Agreement (MOA) between the Village of Taos Ski Valley and Taos Ski Valley, Inc. for Lodgers' Tax Contribution of \$38,481.00 for the Service Employees Bus Transportation System

At the November 2016 council meeting, the council made a motion to support the Lodgers' Tax Committee recommendation that \$38,481.00 be used to support the TSVI shuttle. Staff recommended approval based on legal concurrence, Lodger's Tax Board vote to support, and a proper MOA be negotiated and accepted. Also, staff recommended that the Village speak with the DFA Local Government representative for an opinion. Attorney Romero's opinion is that this is an allowable cost for lodger's tax funds. Councilor Stagg said that there will be defined schedules for tourist use and that the schedule complements the RTD schedule.

MOTION: To Approve of Memorandum of Agreement (MOA) between the Village of Taos Ski Valley and Taos Ski Valley, Inc. for Lodgers' Tax Contribution of \$38,481.00 for the Service Employees Bus Transportation System

Motion: Councilor Wittman Second: Councilor Bennett

Discussion followed on whether staff passes would be required to ride the bus.

AMENDED MOTION: To Approve of Memorandum of Agreement (MOA) between the Village of Taos Ski Valley and Taos Ski Valley, Inc. for Lodgers' Tax Contribution of \$38,481.00 for the Service Employees Bus Transportation System with the provision that visitors not be discriminated against by the driver in favor of staff

Motion: Councilor Wittman Second: Councilor Bennett

More discussion followed, with some comments that putting money towards the TSVI bus makes sense because the Village can have more input on the schedule than with the RTD bus, which benefits employees, visitors, and TSVI alike. Also, the bus runs that would appeal to tourists are either mid-day or in the evening, when fewer staff would be riding anyways.

The question was called.

Passed: 3-1(Councilor Brownell voting against)

E. Consideration to Approve Relief for Edelweiss Lodge November Utility Bill for Unauthorized Use of Water by Third Party

Water was being used from an outside spigot at the Edelweiss Lodge to water new plantings on Sutton Place. This was being conducted by a landscaping crew, and the Edelweiss Staff had not authorized this usage.

MOTION: To Approve Relief for Edelweiss Lodge November Utility Bill for Unauthorized Use of Water by Third Party to the median of the summer average consumption and the invoiced consumption for November.

Motion: Councilor WittmanSecond: Councilor BrownellPassed: 4-0The credited amount will be billed to the contractor.

F. Consideration to Approve Relief for Rocky Mountain Condominium Lodger's Tax Penalties for December 2015 to September 2016

Terry Sports had not remitted lodgers' tax reports to the Village for the months of December 2015 through September 2016 and the manager was asking for relief on the penalties. No tax was due, according to the manager, as no rentals had taken place during those months.

MOTION: To Approve Relief for Rocky Mountain Condominium Lodger's Tax Penalties for December 2015 to September 2016

Motion: Councilor Bennett Second: Councilor Wittman Failed: 0-4

G. Discussion and Request for New Mexico Municipal League (NMML) for a Legal Opinion on Real Estate Transfer Tax

Most states have some type of real estate transfer tax in place, but New Mexico is one of the 13 states that do not have one in place. Real estate transfer tax can be used for specific project or purposes. This tax would be imposed on the transfer of the title of real property within the jurisdiction.

MOTION: To Recommend Village Administrator work with Councilor Stagg and the Village Attorney to draft a request for legal opinion of the NMML on establishing a real estate transfer tax in the Village of Taos Ski Valley

Motion: Councilor Stagg Second: Councilor Wittman Passed: 4-0

13. MISCELLANEOUS

A. TSVI CEO David Norden addressed the Council to say that TSVI had re-printed their trail maps to now list all of the merchants in the Village, and the new directory map signs will also indicate the location of all merchants in the core area.

B. Councilor Brownell asked about the mud that seems to be flowing from the parking lot into Sutton Place. TSVI will look into re-grading the area above the entrance to Sutton Place, though this may not be completed until the summer months.

C. TSVI announced the opening of the new "Taos Bound" area in the Sprung structure which will be opening soon on weekend evenings for children's activities.

D. Mayor King asked each of the Councilors to contact Administrator Fratrick with their concerns about the amended MDA so that Fratrick could then meet with Mr. Rockey to make a plan on how to proceed.
E. Roger Pattison addressed the Council saying that the community is concerned that Councilor Stagg has a conflict of interest that is not being identified on some items being presented to the Council for a vote. Councilor Stagg said that a conflict of interest comes to play when a person stands to gain personally by a vote of the Council. Mayor King noted that Councilor Stagg's family no longer owns TSV Inc., and that in a small town many people are involved in businesses that come up in discussions or votes at a Council meeting. Mayor King said that he also works for TSV Inc., as did Councilor Bennett until recently. Attorney Romero will look into the parameters surrounding the nature of the conflict of interest guidelines and perceptions.

14. ANNOUNCEMENT OF THE DATE, TIME AND PLACE OF THE NEXT MEETING OF THE VILLAGE COUNCIL.

The next regular meeting of the Village Council is scheduled for Tuesday, January 17, 2017, at 2:00 p.m., at the Edelweiss Lodge Club Room. This is a week later than usual due to Administrator Fratrick being out of town on the second Tuesday of the month. A Council workshop will be held on December 21, 2016 at 1:00 p.m.at the Edelweiss Lodge Club Room to discuss Wastewater Treatment Plant funding options.

15. ADJOURNMENT MOTION: To Adjourn. Motion: Councilor Wittman The meeting was adjourned at 5:00 p.m.

Passed: 4-0

Neal King, Mayor

ATTEST:

Ann M. Wooldridge, Village Clerk