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> VILLAGE COUNCIL REGULAR MEETING DRAFT MINUTES EDELWEISS LODGE CLUB ROOM 106 SUTTON PLACE TAOS SKI VALLEY, NEW MEXICO TUESDAY, AUGUST 13, 2019, 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 Brownell 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 Christof Brownell Councilor Jeff Kern Councilor Roger Pattison Councilor Chris Stagg Councilor Tom Wittman, Mayor Pro Tem

Staff present:

Village Administrator John Avila Village Clerk Ann Wooldridge Finance Director Nancy Grabowski Police Chief Sam Trujillo Community Development Director Patrick Nicholson Building Official Jalmar Bowden Project Manager Rich Willson Public Works Director Anthony Martinez Administrative Assistant Renee Romero Administrative Assistant Christina Wilder Village Attorney Susan Baker

3. APPROVAL OF THE AGENDA

MOTION: To approve the agenda with the amendment of moving item 13. E. to before 13. A. and also to
amend the title to naming Chaz Rockey as the agent.Motion: Councilor WittmanSecond: Councilor StaggPassed: 4-0

4. APPROVAL OF THE MINUTES OF THE JULY 16, 2019 VILLAGE COUNCIL REGULAR MEETING MOTION: To approve the minutes as presented Motion: Councilor Wittman Second: Councilor Kern Passed: 4-0 Mayor Brownell asked for a moment of silence to observe the recent tragedies and mass shootings.

5. PRESENTATION BY DAVID MONTEITH, NEW MEXICO TAX AND REVENUE DEPARTMENT

Mr. Monteith introduced himself, saying that he is the NM Tax & Revenue Department's (NM TRD) contact for the Village of Taos Ski Valley and the Village of Taos Ski Valley Tax Increment Development District. He said that he had straightened out compliance issues between the Village and the TIDD location codes. Reports are available for the identified agents who have taken the confidentiality training and signed the agreements. Mr. Monteith said that he had contacted tax payers about incorrect reports and that they were mostly willing to amend reports with the correct location code. Three TRD reports are available: the GRT filers report, the Distribution Decrease/Increase

report, and the Range report. Mr. Monteith said that there would be no detail in the reports but that it would be possible to see the entities that continue to use the wrong code.

Chaz Rockey, TIDD Board Member and Co-Treasurer, said that it appears that the TIDD GRT distribution has a shortfall of about \$4 million. He said that he had contacted NM TRD Cabinet Secretary Stephanie Schardin Clarke, who was a former Village TIDD Board member, as representative of the NM Department of Finance in order to work out reconciling GRT distributions. Mr. Rockey said that the TIDD Board had requested that the Village Council name him as an agent to work out GRT distribution anomalies. He said that he would work with Mr. Monteith on straightening out GRT distributions, if appointed by the Village. Mr. Rockey said that it appeared that approximately 80% of GRT comes from TSVI and its construction work. He noted that Mr. Monteith's and Secretary Schardin Clarke's efforts had made a hugely improved effort on the part of NM TRD to sorting out the problem. TIDD Board Chair King said that sorting out the GRT distributions was a problem for the Village as well as for the TIDD.

6. CITIZENS' FORUM – Limit to 5 minutes per person (please sign in)

A. Property owner Kelly Grosstette said that along Twining Road, she lives with dust every day. She said that the Village's Public Works Department had said that they didn't have time to work on dust control, but that she wants assistance in dealing with this problem. The potholes had been good, she said, as they slowed people's speed down, but now that the Village was using a grader to make the roads smooth, the cars were going faster.

B. Homeowner Kathy Bennett said that there had been no bear sightings yet, but that by next month the bears would be gathering food for the winter. She said that it had been reported that campers were leaving food out on picnic tables in Twining Campground while hiking. She asked if Chief Trujillo could monitor the campground to assist in informing campers to be bear-aware.

7. FINANCIAL REPORTS

Finance Director Grabowski reported that GRT remitted to the Village in July was \$73,181 compared to \$54,483 for July last year. Fiscal year-to-date GRT is the same. The TIDD did not receive received GRT in July for May collections. Hold Harmless GRT for the month was \$5,858.

Lodger's tax collections in July were \$9,107 versus \$8,692 for last year. Fiscal year-to-date total is the same. \$15,000 for each the Fire Department and the EMS Department donation funds were received by the Village via the Taos Community Foundation from TSVI's end-of-season fundraisers.

Director Grabowski pointed out that all of the transfers budgeted for FY19 had not been made. The budget showed \$30,000 to be transferred from Water 01 to Water Depreciation 41 for general reserves, and only \$15,000 was able to be transferred. Along the same lines, the budget showed \$120,000 transferred from Sewer 02 to Sewer Depreciation 42 for general reserves, and only \$40,000 was able to be transferred. If the transfers had been made, she said, there would have been negative fund balances in 01 and 02 at fiscal year-end.

8. COMMITTEE REPORTS

A. Planning and Zoning Commission –Commission Chair Wittman reported that the Commission had not met in August.

The next meeting is scheduled for September 9, 2019 at 1:00 p.m. at the Edelweiss Lodge Club Room.

B. Public Safety Committee –Committee Chair Pattison reported that the Committee met on August 5, 2019. He said that requests for bids would be underway for burying all overhead electric lines. The Committee continues discussions with the NM DOT concerning the State Road 150 highway striping in Amizette. The second emergency siren is to be installed soon at the Kachina Lift Station, after which the third siren will be ordered. The Community Forum took place as scheduled on Saturday, August 10, 2019 at the Edelweiss Lodge with lots of good information shared.

The next meeting will take place on September 9, 2019 at 10:00 a.m. at the Inn at Taos Valley.

C. Firewise Community Board of Directors – Committee Chair Pattison reported that the Committee met on August 5, 2019.

Final Board review of the complete Wildfire Prevention and Protection Ordinance took place, on the latest draft by Attorney Baker. This draft was posted to the Village web site for public input and for discussion at the August 10, 2019 Community Forum. About 20 people were in attendance at the meeting, he said, and he reported that a good question and answer and discussion period had occurred for items requiring further review by the Board and by Attorney Baker. Once any changes have been incorporated, the Board will publicize the draft ordinance again.

TSVI CEO Norden asked where the underground electric lines would replace overhead lines, and Board Chair Pattison replied that anywhere overhead lines exist is a concern.

The next meeting will take place on September 9, 2019 at 11:00 a.m. at the Inn at Taos Valley.

D. Parks & Recreation Committee – Committee Member Kerrie Pattison reported on recent Parks & Recreation Committee activities:

- The disc golf course has been installed going up the Rubezahl Trail and coming down Snakedance. Some disc golf sets are available at the Chamber Visitor Center, along with maps of the course. An improved map is in the works.
- The signage has been updated and other upkeep conducted including the installation of new benches, at the Kachina Vista Park. Committee Member Kelly Grosstette was thanked again for her work in painting the gates.
- The Committee worked with TSVI's Mike Bower on the volleyball court, with TSVI building the volleyball set-up, the Parks & Recreation Committee paying for the supply and delivery of sand, and another member setting the net.
- The Field Institute of Taos campers' signs are posted along the JR Trail. The trail benches are being refinished.
- The corn hole game is set up outside of Bumps each day for use by the public.

The next meeting has not yet been scheduled.

E. Lodger's Tax Advisory Board - Councilor Stagg reported that the Board had not met and the next meeting hadn't been scheduled. He said that there are funds available for grant requests, and that application could be made through Finance Director Grabowski.

9. **REGIONAL REPORTS**

Planning Director Nicholson reported that the Source Water Protection Committee met on August 1, 2019. The final Plan will outline guidelines to protect the Phoenix Spring, as well as the Gunsite and the Bull-of-the-Woods Springs. The next Source Water Protection Plan meeting is scheduled for September 5, 2019 at 10:00 a.m., after which the Plan will be reviewed by the Planning & Zoning Commission before being brought to the Council.

10. MAYOR'S REPORT

Mayor Brownell said that the Up & Over 10K race had been a big success, with a record-breaking 342 runners participating, ages 10 to 80. Over 100 participants were from out of state, staying in hotels and eating in restaurants. He said that he hopes to video Council meetings in the near future and post the videos to the Village web site or another site. Mayor Brownell said that he would work with Clerk Wooldridge and former Mayor Neal King on this. He thanked former Mayor Neal King for all of the work he had done in accomplishing so much during his tenure, including many projects which are now underway like the WWTP upgrade, the Kachina Water Tank construction, and the monitoring and development of the Gunsite Spring.

Mayor Brownell said that he is a member of the Recycling Committee of the Landfill Board. If the Town of Taos funds the Recycle Center, there will be a drain on the Town's funds.

Luis Reyes, Kit Carson Electric CEO, presented at the Intergovernmental Council, saying that some of the Volkswagen settlement funds had been sought to build electric car charging stations, mostly on the perimeter of the Town of Taos near solar arrays. More charging stations would be built soon. Mayor Brownell thanked TSVI for installing electric charging stations in the Village. Councilor Stagg said that TSVI was looking into purchasing some electric snowcat PistenBullies. Mayor Brownell said that he had asked Mr. Reyes about the possibility of taking down the overhead electric lines up the canon from Taos East. Mr. Reyes said that even when the overhead lines were no longer charged, the poles and lines would remain in order to create redundancy and also to maintain the U.S. Forest Service easement.

11. STAFF REPORTS

Administrator Avila reported on ongoing projects:

• WWTP – Started excavation at retaining wall and new building site. Removed chemical storage tanks from existing plant and relocated to temporary plant for emergency overflow. The temporary plant is in place and running. Training on the new plant systems is taking place. Installation of the Ovivo equipment is scheduled for October pending building readiness. Project management includes scheduling the regular monthly progress meetings with

USDA to coincide with the Village's pay application process. Completion of the project is planned for mid-December. Total cost will be \$9.2 million without any change orders.

- Kachina Water Tank Final completion is scheduled for November 25, 2019. The approved Water Trust Board extension expires on November 30, 2019. The Village will submit a request for the change of scope and an extension for the project reporting deadline. The grant funding expenditure requirement has been met.
- Village Hall Complex Paving for parking has been delayed due to the need to address damage with the front retaining walls. The damage has been reviewed for different treatment options including repair to the previous status and improved design and construction. The apartment water pressure tanks are leaking, so either a replacement system or repairs would be needed to provide water to the apartments. Completion of key tasks is required for the apartments to be rentable, including CID inspection. Project Manager Willson is working with CID for a variance to using sprinklers in the apartments as a sprinkler system could cost up to \$230,000. The Village Complex office space is being prepared for use by the Village Police Department with relatively inexpensive construction costs. Additionally the backup electrical generator being removed from the new sewer

plant has a benefit for use at the Complex, especially for Public safety. A pad for the generator is being built. Project Manager Willson said that the driveway design has been changed, reducing the price by \$17,000.

- Traffic controls have traditionally been established administratively, but Staff feels that items like street signage (speed limits, warnings, etc.) should have public review and P&Z Commission recommendations. Other items such as weather condition warnings and handicapped parking space placement should get the same process of review and possibly be outlined in an ordinance. A public survey is planned for the end of the month to get input on road issues and street recommendations, he said.
- A request for proposal is planned to be issued this week for the purposes of undergrounding utilities such as gas, electric, and fiber optic by the Village, Administrator Avila said.
- Village Staff anticipates review and report to Mayor and Council in September for TIDD public infrastructure dedication. The dedication documents have been submitted to the Village by TSVI for review under the TIDD MDA and Village Staff needs to provide the attention required.
- Administrator Avila said that some of the Village Ordinances require full review and permitting and in the past some required permit applications were not submitted. Staff has begun to correct this deficiency and has had to overcome previous practices of contractors and such because of expectations of the habits of the past. Staff has performed well under pressure and derisive commentary, said Administrator Avila. Village Staff is meeting their fiduciary responsibility and technical requirements and investigating improvements for ordinance language amendments. In addition, streamlined processes are being developed, and efforts continue to guide contractors to an improved application experience and successful outcome. Permits are required in order for Staff to review construction activity, insure compliance with local, State, and Federal laws, to protect public health and safety, as well as for scrutiny and encouragement of orderly development, communication of schedule and technical solutions to the Village, and to minimize public liability.

• .Department Briefs

- Chief Trujillo reported on recent activity: Arrests (0), Residential Alarms (2), Business Alarms (1), Vehicle Alarm (1), Suspicious Persons/Vehicles (2), Citizen Assists (87), Embezzlement (0), Traffic Enforcement Hours (55), Traffic Stops (17), Traffic Hazard (4), Theft (0), Vehicle Theft (0), Larceny (0), Property Damage (0), Verbal Warnings (21), Written Warnings (2), Parking Citations (5), Written Citations (1), Assists to other Agencies (7), Foot Patrol Hours (38), Welfare Check (0), Animal calls (3), MVCs (1), B&E (0), Trespass Warnings (1), Found/Lost Property (0), Disorderly (0), Reckless Driver (2), Private Property Crash (1), 911 Hang Up (0), Trespassing (1), Battery or Assault (0), Domestic Calls (0), Narcotics Adult (1), Civil Stand-by (0), Fire Calls (2), Fire Alarms (1), EMS Calls (0), SAR Calls (0). Chief Trujillo reported that although the investigation is on-going concerning the Mineslide avalanche in March 2019, no leads or proof of neglect, or proof of wrongdoings, had been found. He thanked everyone for their assistance and information. Chief Trujillo said that the avalanche could have been an accident of Mother Nature. If more information were provided, the investigation would continue. He said that all of the significant persons had had alibis.
- Planning Director Nicholson reported that project planning for the Twining Road project improvements continues with an engineering site analysis upcoming. The GIS continues to grow. The property at 20 Zap's Road has been brought into compliance and is no longer a public nuisance or safety hazard. Recent enforcement actions include a variance for the Village's noise ordinance for construction-related activities. Long-term multi-family rentals may need zoning considerations. The RFP for a system development and impact fee study was issued with a submittal date of September 30, 2019.

TSVI CEO David Norden said that resorts across the country are having a difficult time providing staff housing. He said that some ski resorts have not been able to operate all of their lifts due to a lack of staff. Mr. Norden said that this was

not a topic to be taken lightly. He said that TSVI was planning now for staff and staff accommodations and that they needed to know as soon as possible if there would be a problem for TSVI to provide staff housing. Mayor Brownell said that Keystone Resort provided staff housing, but not in a residential area. He suggested that perhaps some housing near TSVI's VMF might be an option.

- Building Official Bowden reported that he had conducted 23 inspections during the last month, 9 of which were for the Parcel D foundations. Permits issued since the last Council meeting include two commercial permits and one multi-family permit. He said that recent visits by an EPA inspector concerning storm water pollution plan compliance may have been directed by another State or Federal agency. Building Official Bowden said that all sites were in compliance and that favorable results were expected. Private building sites as well as the Village's construction project sites were inspected.
- Public Works Director Martinez reported that the floors had been poured for the Kachina Water Tank and the walls were currently being poured. The temporary WWTP was operational. He said that the new Ovivo plant is planned to be done in mid-September. He said that Staff had been cleaning the collection system and that the manholes were being put into the GIS system at the same time. Staff has been dealing with heavy rains but has been cleaning out the drop inlets and clearing roads of debris. A road grader had been tested in order to work on road crowns, which helps with drainage. Several pieces of equipment are in need of repair, including the water truck, which has precluded watering the roads
- Clerk Wooldridge reported that Candidate Filing Day for the November TIDD Board Member election was taking place on August 27, 2019 from 9 to 5 at the Taos County Clerk's office.
- Attorney Baker said that the mediation between the Village and TSVI had taken place on July 29, 2019, but with no decision agreed upon. She said that a committee would be formed to review the impact fees, with Council approving the committee member appointments.

12. OLD BUSINESS

13. NEW BUSINESS

E. Consideration of TIDD Board Request to Village Council, and to Designate an Agent of the Village to be Permitted to Inspect Certain NM Tax & Revenue Department Reports under the Terms of the NM Tax & Revenue Department Confidentiality Agreement, for the Purpose of Working with Approved Village Staff and the NM Tax & Revenue Department to Reconcile Gross Receipts Tax Allocations to the Village and to the TIDD

On July 17, 2019, the TIDD Board requested that the Village Council appoint an Agent to work with the New Mexico Tax and Revenue Department (NM TRD) to address collection of Village GRT and appropriate allocation of funds back to the TIDD. The TIDD Board has expressed concerns that it is not receiving an accurate allocation of GRT monies through NM TRD.

Administrator Avila said that Staff suggested the appointed representative meet the following qualifications:

- Have no conflicts of interest with the Village. Such conflicts could include involvement in pending litigation matters or with entities adverse to the Village.
- Have a fiduciary responsibility to the Village and meet all the requirements of the NMTRD Confidentiality Agreement to nullify risks to the Village.
- Be willing to maintain confidentiality regarding Village and NMTRD financial records, and obtain any necessary certification to ensure protection of confidential information.
- Be willing to sign an affidavit outlining fiduciary responsibilities, confidentiality standards, and any other necessary assurances related to this appointment.
- Work effectively with Village Finance and Administration, as well as NMTRD, and be well versed in accounting, good with data analysis, or finance management.

Administrator Avila noted that the agenda item title had been changed to reflect the TIDD Board request, which was to specifically name Chaz Rockey to be the designated agent to work with NM TRD.

Attorney Baker said that pending litigation between the Village and TSVI should be finished by the time that Mr. Rockey was to conduct this work.

MOTION: To Appoint Chaz Rockey as an Agent of the Village to be Permitted to Inspect Certain NM Tax & Revenue Department Reports under the Terms of the NM Tax & Revenue Department Confidentiality Agreement, for the Purpose of Working with Approved Village Staff and the NM Tax & Revenue Department to Reconcile Gross Receipts Tax Allocations to the Village and to the TIDD Motion: Councilor Wittman Second: Councilor Kern Passed: 4-0

A. Consideration to Approve <u>Resolution No. 2020-404</u>, the Village of Taos Ski Valley 2021-2025 Infrastructure & Capital Improvements Plan (ICIP)

The 2021-2025 Village ICIP is prepared annually for submission to the NM Department of Finance & Administration. It establishes Village policy and project funding priorities for the period 2012-25. Additional work remains to obtain and secure specific project funding and to designate a Village project manager. The plan was developed by Staff and presented, discussed, and approved by the Village P&Z Commission at its July 1, 2019 regular meeting. The current draft incorporates P&Z recommendations.

MOTION: To Approve Resolution No. 2020-404, the Village of Taos Ski Valley 2021-2025 Infrastructure &
Capital Improvements Plan (ICIP)
Motion: Councilor StaggSecond: Councilor WittmanPassed: 4-0

B. Discussion of Draft Records Retention Schedule

Clerk Wooldridge said that the Village Council had adopted Resolution No. 1999-29 establishing a Records Management Program for the Village of Taos ski Valley on January 9, 1999, which stated that the Village would follow the State of New Mexico Records Management Division's records retention schedule. Several years ago the State of New Mexico changed its schedule, and most municipal clerks were not in favor of the new schedule. The NM Sate Records and Archives has only advisory authority over municipalities and does not have staffing to assist municipalities. The NM Municipal Clerks & Finance Officers Association formed a committee to develop a schedule that was more in line with the needs of municipalities, and which contained more description to assist staff in managing records. An overview of the records retention suggested guidelines was presented. The Village of Taos Ski Valley could make changes to this schedule if desired. If acceptable, a Resolution to adopt a records retention schedule would be brought to the next Council meeting for adoption.

Clerk Wooldridge said that Staff had begun marking boxes of files that could be destroyed according to this draft retention schedule. Once a schedule is approved, Staff would bring a list of items to be destroyed for Council approval, after which a destruction could done. Legal destruction methods in New Mexico include: witnessed burial (at a landfill), shredding, or destruction by a certified/bonded recycler. Staff would investigate the simplest and most cost-effective method.

The goal for implementing this program is to become more organized and efficient, and to be able to easily find and retrieve records. This item is for review and discussion only at this time. Councilor Stagg commended Clerk Wooldridge for moving ahead with this process and commended the Clerks Association for developing a useful schedule.

C. Action to Remand the Thunderbird Road Improvements Project to the Planning & Zoning Commission for Review and Recommendation

Attorney Baker said that this action is necessary due to further design revisions and changes to Thunderbird Road by TSVI subsequent to the Planning and Zoning Commission's previous consideration.

Thunderbird Road is a TIDD project to be designed and built by TSVI. Once completed, it is contemplated that the Road would be accepted by the Village and dedicated as a public right-of-way. According to the TIDD Master Development Agreement the Village has the right to formally approve construction documents for any component of eligible infrastructure, such as Thunderbird Road. In investigating the history, it appeared that appropriate formal review and approval was not conducted with regard to Thunderbird Road, she said.

In order to resolve the discrepancy between the design and construction plans given to some Village staff and those presented to the Planning and Zoning Commission, Village staff recommends that consideration of the Thunderbird Road design be remanded back to the Planning and Zoning Commission.

MOTION: To Approve Remanding the Thunderbird Road Improvements Project to the Planning & Zoning Commission for Review and Recommendation

Motion: Councilor WittmanSecond: Councilor StaggDiscussion followed.

The Mayor called for a vote. Passed: 4-0

D. Consideration to Approve the Renewal of Task Contracts and Addition of New Task Contracts with Alan Plummer Associates, Inc. (formerly FEI)

Director Grabowski said that in 2014 the Village did an RFP and secured Brilliam/FEI Engineers to do on-call engineering projects. Recently FEI was purchased by Alan Plummer Associates, Inc. Plummer has been given several tasks to complete by the Village. On an annual basis the Village contracts for some general services and additionally contracts for specific items. Renewing Task Orders: Task #1 General Services \$25,000, Task #7 On-Call Water Services \$25,000. New Task Orders: Task #23 Kachina Booster Station Upgrade \$14,200, and Task #25 Phoenix Source Water

NMED \$16,500. Task #22 North Gunsight Springs Design \$35,000 will go out to bid separately because the Village obtained Legislative Appropriation funds for this work. MOTION: To Approve the Renewal of Task Contracts and the Addition of New Task Contracts with Alan

Plummer Associates, Inc. Motion: Councilor Stagg Second: Councilor Wittman Passed: 3-1 (Councilor Pattison dissenting)

14. MISCELLANEOUS

15. CLOSED SESSION

A. Discussion of Possible or Pending Litigation		
This matter may be discussed in closed session under Open Meetings Act exemption 10-15-1(H) (7)		
B. Discussion of the Acquisition of Real Property		
This matter may be discussed in closed session under Open Meetings Act exemption 10-15-1(H) (8)		
C. Discussion of Limited Personnel Matters		
This matter may be discussed in closed session under Open Meetings Act exemption 10-15-1(H) (2)		
MOTION: To go to Closed Executive Session		
Motion: Councilor Wittman Second	: Councilor Stagg	Passed: 4-0
MOTION: To return to Open Session		
Motion: Councilor Wittman Second	: Councilor Stagg	Passed: 4-0
No decisions or motions were made during closed session.		

13. F. Direction to Village Staff to Continue Investigation and Development of Village Water Rights
MOTION: To Direct Village Staff to Continue Investigation and Development of Village Water Rights
Motion: Councilor Stagg Second: Councilor Wittman Passed: 4-0
Legal staff will be retained concerning investigating the Village water rights.

G. Direction to the Administration to Respond to Continued Threats of LitigationMOTION: To Authorize Attorney Baker to follow through with responding to the settlement offer as discussed.Motion: Councilor StaggSecond: Councilor WittmanPassed: 4-0

16. ANNOUNCEMENT OF THE DATE, TIME & PLACE OF THE NEXT MEETING OF HE VILLAGE COUNCIL

The next Regular Village Council Meeting will be held on Tuesday, September 10, 2019 at 2:00 p.m. at the Edelweiss Lodge Club Room.

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

Second: Councilor Pattison

Passed: 4-0

ATTEST:

Christof Brownell, Mayor

Ann M. Wooldridge, Village Clerk