**Town of Lake Santeetlah**

**Council Meeting Minutes (Zoom)**

**February 15, 2022**

Mayor Connie Gross called the meeting to order at 5:30PM. Councilmembers Tina Emerson, Jim Hager and Ralph Mitchell were present for the meeting. Town Administrator Matheson, Town Clerk Emily Hooper and Attorney Craig Justus were also present. Diana Simon was not available.

Ralph Mitchell presented the Invocation and Pledge of Allegiance.

**Approval of the Agenda:** Mayor Gross asked for a motion to approve the agenda. Mitchell made a motion to approve as presented. Emerson seconded. The motion passed unanimously. Hager dropped off the meeting and was not present to vote.

**Approval of the January 13, 2022 Council Meeting Minutes:** Councilmember Emerson made a motion to approve the January 13, 2022 Council Meeting Minutes as presented. Mitchell seconded. Hager was unavailable. The motion passed unanimously.

**Financial/Tax Report:** Tax collection for January was $35,967.59. General operating balance $146,832.47 and Water Operating $43,932.82. Matheson reported that there had been changes made to the water report. The principle balance is shown.

Diana Simon and Jim Hager joined the meeting.

Simon asked to offer an amendment to the agenda since she wasn’t able to join earlier due to internet issues. Simon asked to move Item#4 Old Business to Item #1 and Item #3 New Business to Item #2. Gross denied. Hager asked to remove Item #1 New Business. Hager explained his reasoning for the removal of this item. Hager shared that Gross and Emerson have conflict with Attorney Justus due to previous lawsuits in which they were involved. Hager supports Justus and feels that he has done a great job as the Town of Lake Santeetlah attorney for three years. Hager asked Gross and Emerson to recuse themselves from voting on this matter. Gross denied.

Finance Officer Tina Emerson reported the profit and loss statement on the water. The second page shown as (water upgrades) shows the loan. The principle and interest balance is shown.

Emerson also explained changes made to the General fund profit and loss statements. The updated report displays balance totals of the different accounts.

An audit was completed of the Escrow account (back to 2015) and there were two road bonds that were due to Town property owners. Those have been returned.

In the last three years the Town has spent $328,680 on legal fees, of which $232,000 is on lawsuits and approximately $24,000 on Zoning legal matters. This total comes from settlements, depositions, zoning, defending Council members of the Town and payment to Craig Justus.

**Request for Public Comment:**

**Diana Simon:** Simon shared her objection to the proposed Resolution for TDA (Item#3 New Business). Simon stated that as chairperson of the TDA she was not advised that this item would be discussed. The Resolution has not been reviewed by Town Counsel. Simon requested that Emerson recuse herself from voting on this matter due to her financial interest.

Simon explained that there were no defaults in the contract with the Aldridge Brothers for the front entrance as thought by Mayor Gross.

**Susan Robinson:** Robinson asked that the 5:30PM time for Town Council meetings be changed to business hours or after 7:00PM. Robinson cares for her mother and the 5:30 meeting is in the middle of dinner time and is difficult to attend.

Robinson recommended if a Council member drops from the Zoom meeting that the meeting be delayed until they return.

Robinson also asked that all members be included and involved in creating the agenda for the Council meetings.

**Keith Predmore:** Predmore stated that a Council member should not be allowed to vote on a matter that he/she has a financial interest in.

Predmore stated according to NC ethics rules a Council members family member should not be working on a contracted job within the Town.

Predmore feels that terminating the contract with Town Attorney Craig Justus is unethical. Justus defended the Town and successfully recovered $40,000 in legal matters in which current Council members were involved in. Predmore stated that terminating the contract was not only unethical but a blatant case of reprisal.

**Bill Piel:** Piel stated that there was no discussion of hiring a new Town Attorney prior to today’s meeting agenda. Piel suggested that this was likely discussed outside of the Council meeting. Piel pointed out that the Town Attorney had defended and recovered $40,000 in fees relating to frivolous lawsuits involving two current Council Members.

Piel asked if the TDA is reduced from 3% to 0%, will the County not then collect the tax? The tax will still be there but the Town will not receive any benefit from it.

Piel also agreed that 5:30PM meeting time is the middle of dinner time and difficult to attend.

**Betty LoBue:** LoBue reminded property owners of TPOA dues and green elephant donations.

**Roger Carlton:** Carlton pointed out that the word “transparency” is used often by the Mayor and new Council Members. Carlton asked Gross if she was being transparent in her role as Mayor. Carlton asked for a document from the NC Board of Examiners of Engineering and Surveyors to be displayed for review. Gross denied. Carlton pointed out that there was concern by Mayor Gross of the front entrance project intruding on other property not owned by the Town. A survey completed by Alan Carver of the Town a few years ago identified borders and Carver was willing to come and place border posts near the front entrance for $500. The TDA planned to pay Alan for his service to enable the front entrance project to proceed. Mayor Gross cancelled Carver from completing this work and hired Herron Surveying for approximately $2,000. Carlton asked Gross why she hired a surveyor who had been fined by the NC Board for issues with previous work completed in the Town of Lake Santeetlah.

**Old Business:**

1. **Update for front entrance progress:**
2. **Report of Survey information from Herron Survey Company:** Kamps reported, after the survey was done and confirmed no issues, Scott Hatch completed rock removal. Water valves were located near the wall and the exit gate. The wall was moved further away from the valve and the brush and debris was cleaned behind the wall. The footers have been poured and the block on the island is complete. The rock work will begin next week.
3. **Report of progress from Scott Kamps (work completed by Scott Hatch, water lines identified & mapped, cleaned out brush and trees):** Report above.
4. **Updated Public Comment Policy (draft) (Action Needed):** Gross shared the draft comment policy. The updated policy proposes that the Board would continue to allow three minutes of comment per item, with a limit of three items. Public Comment would be allowed at the end of the meeting as well as the beginning. Emerson stated that the policy seems a little too detailed for what we need and would like to review and simplify. Emerson made a motion to table the public comment policy to the March Council Meeting. Mitchell seconded. All approved. The motion passed unanimously.
5. **Covid Relief Funds – Staff Bonus (Action Needed):** Emerson researched and determined that the ARP funds could not be used for staff bonuses. The Town received $6692.65 in ARP funds. Emerson explained the money could be used for water upgrades and improvements. Emerson will research further and report at a later time.
6. **Update of Brickell land purchase:** Gross explained that Mack Tallant determined that the proposed land purchase was not near the parking area and no right-of-way would be necessary. Gross made a motion to approve the sale of property to Thomas Brickell. Hager seconded. All approved. The motion passed unanimously. Emerson suggested the Town have a policy for future land sales. If property is sold near the road an easement be held in case there is a need to dig into the road, add water lines, or other utility needs.
7. **General Release of Liability form (Action needed):** Gross explained the general liability form as presented will be in the office for anyone who works within the Town that is not under contract. Mr. Gross has signed a general release form that is on file at Town Hall. The liability form presented will be reviewed by the new Town Attorney and on the agenda for approval next month.

**New Business:**

1. **Town Attorney: Discussion of Actions & Review proposal of Attorney Derek Allen, of Allen Stahl & Kilbourne of Asheville (Action needed):** Mayor Gross proposed that the contract with Craig Justus of the Van Winkle Law firm be cancelled, and a new attorney be hired for the Town. Simon asked if the new attorney had represented anyone from TOLS in the past. Simon requested other options for attorneys be given before hiring. Gross made a motion to cancel the contract with Attorney Justus as Town Attorney effective immediately. Mitchell seconded. Hager stated that if Gross and Emerson proceed with a vote on this matter, he will file a complaint with the state ethics department tomorrow morning. Emerson asked Mr. Justus if the Town attorney served at the pleasure of the Town Council and Justus stated that the majority of the Council makes the decision, which would then be the pleasure of the Council. Hager and Simon opposed. The motion passed three to two.

Emerson made a motion to hire Derek Allen, of Allen Stahl & Kilbourne of Asheville. Mitchell seconded. Hager stated that it seemed Allen has more experience with lawsuits and municipalities than he does representing municipalities. Emerson stated that she was not aware of this firm representing anyone from the Town of the Lake Santeetlah in the past. The rate for Derek Allen is the same as Justus. Emerson shared that it is common for a new Council to hire a new attorney when elected.

Hager and Simon opposed. The motion passed three to two.

1. **Speed Bumps on Cherokee Trail (Action needed):** Gross reviewed the requests by homeowners to change the speed bumps to humps. These requests were denied by previous Council. Gross asked that the bumps be replaced by humps on Cherokee Trail. Gross stated that no vote is needed on this matter. This can be an executive decision and they will be replaced.
2. **Tourism Development Authority (TDA) – Occupancy Tax Rate, Board Vacancy, Update Finance Officer (Action needed):** Simon reported that as of February 10, 2022 the total balance was $38,106.95. The TDA Budget is $22,000 for this fiscal year. Between July 2021 –January 2022 the total income collected is $17,308.46. The TDA is currently advertising with Our State Magazine and paid $5,000 for the planter at the front entrance. Simon stated that Keith Predmore resigned as a TDA Board member and Karen Taylor had agreed to be his replacement if approved. Taylor is a former Graham County TDA Director and Business Owner.

Emerson explained that she had wrote the Resolution proposed to change the collection rate within the Town of Lake Santeetlah from 3% to 0%. Emerson reminded that at the Public Hearing in 2017 concerning the creation of TDA, those present felt that Graham County would have the ability to use occupancy tax funds in a variety of ways and was not needed for Lake Santeetlah. Emerson shared a breakdown of expenses of the TDA. Emerson made a motion to lower the Occupancy tax from 3% to 0% effective July 1, 2022. Hager suggested that Emerson should not vote on this matter due to her interest. Hager stated, if she votes, an additional ethics complaint will be filed tomorrow. Emerson stated that the Occupancy Tax funds are to be used to promote tourism. Lake Santeetlah does not have the need to promote tourism. Emerson read the minutes when the Occupancy Tax was discussed and approved in 2017. Emerson stated that she would like to dissolve the Town of Lake Santeetlah TDA. Mitchell seconded. Hager and Simon opposed. The motion passed three to two.

Simon made a motion to appoint Karen Taylor as a new member of the Lake Santeetlah TDA. Hager seconded. Gross, Emerson and Mitchell opposed. The motion failed. The Council had no other candidates to offer as a replacement.

1. **Budget Amendment - General & Water (Action needed):** Emerson reviewed the budget amendments in the General account: Advertising and Promotion $1100, Computer Tech Support $600, Election $2041.70, Planning Board expense $2250. A total of $3991.70. The general amendments will be transferred from, all pending litigation ($3000) and Lake Water Quality Testing ($991.70). Water Amendments include: Freight and Postage $284 and Supplies and Equipment $1000. Total of $1284. The amendments will come from funds that was planned to transferred to reserves. Emerson made a motion to pass the budget amendments as presented. Gross seconded. Mitchell approved. Hager and Simon were not available for vote.
2. **Danger Tree Removal (Action needed):** Kamps explained that there is a large white pine tree near the front entrance of the Town that has dead parts in it and would need to be taken down. Kamps received one quote for removal. Steven Pressley provided a quote for $4600. The tree is marked with an orange ribbon. Gross asked how much was in the budget for danger tree removal. $600 is left in the budget for this year. A budget amendment would be needed to pay for the removal of the tree.

Kamps explained a crane and other equipment will be needed for the removal due to the size and location. Power lines will also need to be lowered. Emerson asked Kamps to get a second quote before making a decision.

1. **Comp time for Scott Kamps for attending classes for fire department in Fontana/Can he use Town Truck to attend:** Kamps will be attending fire classes in Fontana. He will bring his qualifications and knowledge back to help at Lake Santeetlah. Gross made a motion to allow Kamps to have comp time for classes taken at Fontana and allow him to use the Town truck for training. Mitchell seconded. The motion passed. Hager and Simon were not available. Emerson also recommended that if an emergency call comes while Scott is working he be allowed to go on the call.

**Discussion:**

1. **Graham County Farmers Market – Donation Request:** Gross explained the Graham County Farmers Market request for donation and suggested sending this on to the TPOA and TDA to donate.
2. **Update Water Policy:** Gross reviewed the current water policy and explained the need for the update. The current policy only requires $500 for new water installation/connection which would likely cost the Town more than that. Gross asked that the new attorney review and offer suggestions. Mayor would also like the new attorney to review the water assessment fees paid in 1995 and advise how to move forward charging those fees. Emerson asked if the Town has a fee schedule. Emerson suggested a schedule be included in the updated policy.
3. **Long term Water and Road Planning:** Emerson reviewed a list of items that should be budgeted in future planning. Emerson asked for residents to share needs & ideas that the Council can further discuss when planning. Emerson would like to have a plan for both water and roads when planning ahead. Last month Kevin Haag explained the need for a generator for the homes at the top of the mountain to maintain water when the power goes out. The estimate received last year for a generator was $24,000. Emerson spoke with Buddy Melton and he explained the only answer for this issue would be a generator. The issue to be determined would be the size of generator needed.

The SCADA needs to be replaced. The system used currently is out of date. A quote was received for $4600 for an updated system or $8300 for the same system that includes a dialer that could be controlled by a smart phone. Kamps could shut off the pumps from his phone. The system with a dialer will also send notifications of problems or issues to the phone.

The (9) Culverts on Black Bear are in the budget for this year ($22,000). Emerson asked Kamps to speak with the Aldridge Brothers for an estimate and Matheson to reach out to HMC for an updated estimate. Emerson shared pictures of different areas on Black Bear that would need to be included in culvert repairs.

**Final Public Comment**

Betty LoBue stated that a lot of good things seems to be coming from the new Council but is disappointed that the Council cannot work together. LoBue would like to see the Council work harder to work together for the good of the community.

Chris Bradley offered his assistance for the SCADA upgrade and information he would have regarding that.

Jack Gross pointed out that the Mayor had the idea to seek new Counsel. Gross stated that having a secret meeting would have been illegal prior to the meeting, which he believes did not happen.

Gross acknowledged that he had signed the liability form on file at Town Hall and supplied proof of general liability insurance.

Dean Davidson asked about the generators discussed for water. Davidson stated he had never lost water when the power was out.

Davidson offered his support for dissolving the TDA.

Emerson shared that she agreed with LoBue and would like to work together for the good of the community. Gross agreed.

**Announcements:**

* The next regular scheduled Council Meeting will be held March 10, 2022 at 5:30PM. This meeting will be held via Zoom, unless otherwise notified. Information will be sent out at a later date.

**Motion to Adjourn.**

Councilmember Mitchell made a motion to adjourn the meeting. Emerson seconded. The meeting was adjourned at 7:37PM.

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Connie Gross, Mayor Emily Hooper, Town Clerk