

**Town of Mancos
Board of Trustees Meeting
January 9, 2019
7:00 p.m.**

A. CALL TO ORDER: Mayor Queenie Barz called the meeting to order at 7:00 p.m.

B. PLEDGE OF ALLEGIENCE & MOMENT OF SILENCE

C. ROLL CALL: Present: Mayor Queenie Barz, Mayor pro tem Fred Brooks, Trustee Betsy Harrison, Trustee Ed Hallam, Trustee Craig Benally

Absent: Trustee Brent McWhirter, Trustee Cindy Simpson

Staff Present: Town Administrator/Clerk/Treasurer Heather Alvarez, Public Works Director Terry Jennings, Plant Operator Robin Schmittel, Deputy Marshal Mike Morris, Town Attorney David Liberman

D. APPROVAL OF AGENDA: Mayor pro tem Fred Brooks made the motion to approve the agenda. Trustee Craig Benally seconded the motion to approve the agenda. Motion passed.

E. APPROVAL OF THE MINUTES OF December 12, 2018: Trustee Craig Benally made the motion to approve the minutes of December 12, 2018. Mayor pro tem Fred Brooks seconded the motion to approve the minutes. Motion passed.

F. AUDIENCE BUSINESS

- Corey, Hiseler, 10750 CR 43, Mancos, CO – handed out paperwork to the Board and addressed the Board by reading a prepared statement. This statement is attached to these minutes.
- Mark Worth, 10750 CR 43, Mancos, CO – Ms. Hiseler did not have a chance to finish her statement, so he finished reading the prepared statement. Town Attorney David Liberman suggested he review the information presented and present information to the Board during executive session. The Board instructed the Town Attorney to do so.
- Pam Kroll, 40986 Road H, Mancos, CO – would like to get back to organic maintenance of Boyle Park. She appreciates the efforts in Cottonwood Park and the new park on the north side of town. She has children and avoids the park after it is sprayed.
- Sarah Tingey, 40275 Road H, Mancos, CO – owns a business in Town, thanked the Board for their efforts in Cottonwood Park and the new park on the north side of town. She asked that the Board continue to explore options at Boyle Park, she prefers 100% green to 100% grass, their employees spend time with their families in Boyle Park and they would prefer organic management.
- Heidi Patton, 38505 Road G, Mancos, CO – requested that Boyle Park be managed organically, she moved her due to the passion of the community members, she holds

strong values against herbicide exposure and prefers an ecologically friendly way of managing park, she supports exploring other options. She thanked the Board for their efforts.

- Fred Boshardt, 43850 Hwy 160, Mancos, CO – requested a meeting with the Board to address alternatives to weed control in Boyle Park. Mayor Queenie Barz thanked the audience for their comments. She advised that we are working toward the goals in the IPM and suggested citizens visit with the Town Administrator to view the IPM and discuss this topic.

G. OATH OF OFFICE – DEPUTY MARSHAL MICHAEL MORRIS

H. ANNOUNCEMENTS

- The new playground at Mancos School is now open. It will be open to the public outside of school hours.
- Staff is working with Mountain States Employers Council to draft and publish the ad for a new Administrative Assistant.
- Staff is working on the 2018 year-end report for publication.
- SAFEbuilt will be attending the January 16, 2019 Planning Commission meeting via telephone to introduce the Zoning & Uses section of the land use code for discussion.

I. TREASURER’S REPORT: DECEMBER BILLS & CLAIMS: Mayor pro tem Fred Brooks made the motion to approve the December bills & claims as presented by staff. Trustee Betsy Harrison seconded the motion. Motion passed.

J. COMMITTEE REPORTS

1. Region 9 Southwest Colorado Economic Development – next meeting January 24
2. CDOT TPR – next meeting is February 7, 2019

K. UNFINISHED BUSINESS

None

L. NEW BUSINESS

1. Public Hearing: Ordinance 746 Series 2019 Boundary Adjustment Mancos School District/Hose Company #1
Public hearing opened at 7:37 p.m.
No one signed up to speak
Public Hearing closed at 7:38 p.m.

Trustee Betsy Harrison made the motion to approve Ordinance 746 Series 2019 An Ordinance Approving the Amending Plat For A Boundary Adjustment & Quit Claim

Deed Between Mancos School District Re6 And Mancos Hose Company #1 Located In Section 28, T36N, R13W, NMPM, Town Of Mancos, Montezuma County, Colorado. Trustee Ed Hallam seconded the motion. Motion passed unanimously by roll call vote.

2. Resolution 4 Series 2019: Cash In Lieu/Dedicated Land

Trustee Craig Benally made the motion to approve Resolution 4 Series A Resolution Setting The Per Acre Fee In Lieu Of Dedicated Land. Trustee Betsy Harrison seconded the motion. Motion passed unanimously by roll call vote.

M. *Items for January 23, 2019 Agenda*

- *MCEDA Presentation*
- *The Bud Farm Marijuana Business License Renewal*
- *Main Street Bridge Project Update*
- *2018 Work Plan Final Update*
- *2019 Work Plan Presentation*

Board recessed at 7:45 p.m.

Board reconvened at 7:51 p.m.

N. EXECUTIVE SESSION – LEGAL ADVICE

Mayor pro tem Fred Brooks made the motion to go into executive session for a conference with the Town Attorney for purposes of receiving legal advice on specific legal questions under C.R.S Section 24-6-402(4)(b). Trustee Ed Hallam seconded the motion. Motion passed.

Executive session started at 7:52 p.m.

Executive session ended at 8:52 p.m.

Mayor Queenie Barz, Mayor pro tem Fred Brooks, Trustee Ed Hallam, Trustee Craig Benally, Trustee Betsy Harrison, Town Administrator/Clerk/ Treasurer Heather Alvarez, Town Attorney David Liberman, Attorney Lisa Marks participated.

No comments with regard to executive session.

O. APPOINTMENT OF TOWN REPRESENTATIVES TO NEGOTIATE SETTLEMENT ON BEHALF OF TOWN OF MANCOS

Mayor pro tem Fred Brooks made the motion to table this item until January 23, 2019. Trustee Craig Benally seconded the motion. Motion passed.

P. EXECUTIVE SESSION – PERSONNEL (TOWN MARSHAL CANDIDATES)

Mayor pro tem Fred Brooks made the motion to enter executive session personnel for discussion of a personnel matter under C.R.S. Section 24-6-402(4)(f) and not involving any specific employees who have requested discussion of the matter in open session; any

member of this body or any elected official; the appointment of any person to fill an office of this body or of any elected official; or personnel policies that do not require the discussion of matters personal to particular employees. Trustee Betsy Harrison seconded the motion. Motion passed.

Executive session started at 8:56 p.m.

Executive session ended at 9:49 p.m.

Mayor Queenie Barz, Mayor pro tem Fred Brooks, Trustee Ed Hallam, Trustee Craig Benally, Trustee Betsy Harrison, Town Administrator/Clerk/ Treasurer Heather Alvarez, Town Attorney David Liberman participated.

No comments with regard to executive session.

Board recessed at 9:52 p.m.

Board reconvened at 9:55 p.m.

Q. EXECUTIVE SESSION – LEGAL ADVICE

Mayor pro tem Fred Brooks made the motion to go into executive session for a conference with the Town Attorney for purposes of receiving legal advice on specific legal questions under C.R.S Section 24-6-402(4)(b). Trustee Betsy Harrison seconded the motion. Motion passed.

Executive session started at 9:55 p.m.

Executive session ended at 10:24 p.m.

Mayor Queenie Barz, Mayor pro tem Fred Brooks, Trustee Ed Hallam, Trustee Craig Benally, Trustee Betsy Harrison, Town Administrator/Clerk/ Treasurer Heather Alvarez, Town Attorney David Liberman participated.

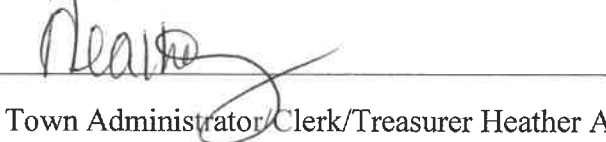
No comments with regard to executive session.

R. ADJOURNMENT

Meeting adjourned at 10:25 p.m.



Mayor Queenie Barz



Town Administrator/Clerk/Treasurer Heather Alvarez

Good evening and thank you for giving me this opportunity to speak with you tonight. I am here tonight to tell a story to the mayor and board of trustees of an agreement which the Town of Mancos entered into in 1960, and has now decided it no longer needs to honor. Allow me to hand out the relevant paperwork so you can follow along with me as I read the narrative to our story

Timeline and narrative

03/29/1960

Easement #1

This is the easement agreement between the town of Mancos and Roland Shepard, the owner of the property at the time of signing. I will condense this for you and give you the bones of this agreement. You have a copy, so you may read the entire document at your leisure.

In return for the use of 2.53 acres for settling ponds and a pipeline crossing the property for approximately 1/2 mile, this agreement provided for two unmetered, untreated water taps and, "Any water which Town has or obtains by or through the Mancos River not needed by Town may, at such times when not so needed by Town, be used by Shepard on lands owned by Shepard adjoining land upon which the easement is granted or in near proximity."

The easement continues:

"As long as Town is using the easement above described, the right to the use of water by and through the tap above described or open flow from the Mancos River shall continue for the use and benefit of Shepard or the owner of the land."

Please refer to the property line map, and photos of the single tap and former open flow outlet.

Property line map with taps #2

Existing tap photo #3

Open flow photo #4

Since 1960, the original Shepard property was divided in such a way as to leave one tap installed in the pipeline on the property now owned by B&B Ranches, just under 1 mile downhill from the town's ponds.

The town has been unable to locate the existence of a second tap that would correspond to the agreement, although there is an old tap which was abandoned with the abandoned steel pipeline. See photos.

Abandoned tap #5 .

Abandoned tap entering pipeline #6

The historic "Open Flow" of over 1/4 cfs pouring from the pipeline since 1960 continued to flow on the portion of the property when we purchased the property in 2015. This overflow design is standard in city and irrigation water systems and required to allow gauging of the water while preventing the top of

the pipeline from running dry. These diagrams demonstrate that this open flow is critical to the pipeline operation. This "open flow" is required for operation, it is not a leak.

Pipeline diagrams #7

October 30, 2015 My husband and I purchased the property which was once owned by Roland Shepard and which hosts the town of Mancos' municipal water settling ponds and a section of pipeline which transports that water into town.

In the fall of 2016, we were informed by DWR, not town, that the town of Mancos would be doing some "upgrade" work on their infrastructure and were planning to divert the open flow water directly into the river.

On November 9, 2016, my husband and I met with town attorney David Liberman, then town administrator Andrea Phillips, and then town public works director Robin Schmittel to request that the historic open flow called out in the easement remain in place and that the town provide the second tap or demonstrate that a second tap exists on property previously part of the parcel in discussion.

We informed the town that there is a conservation easement on the property held by Montezuma Land Conservancy and The State of Colorado that required notice before any construction and prohibited excavation, road building or any activities that degraded the Conservation Values set forth in the conservation easement agreement.

On July 25, 2017, without notice to conservation easement holders or land owner, the town began their project, laying supplies outside of any easement area, stripping the grass, shrubs and trees from well over one acre of land, moving the existing road, building additional road and taking over 24 truckloads of rock and rich black soil from the property.

The town then proceeded to move the pipeline more than 20 feet to the east.

(Colorado law clearly requires consent of both parties to move a right of way.)

The town of Mancos has NOT honored its 1960 agreement.

The town has cut off the approximately ¼ cfs of "open flow" that has been in place for the last 58 years. The town has failed to provide the second tap or demonstrate the existence of the second tap called out in the easement.

As I speak, ½ mile of the town's raw water pipeline and 2.53 acres of settling ponds occupy our land. Employees of the town drive ½ mile up & down our dirt driveway to the center of our property 4-6 days each and every week.

Property line map with taps #2

Robbins easement # 8
Updated easement (Shepard) #9
New easement (Robbins) #10

We would like to resolve this issue and have come up with two options. The first is to revisit the 1960 agreement; change the names, the dates, the physical description to reflect the actual physical location of the town's infrastructure & the compensation of one 3/4" unmetered, untreated water tap, which would remain with the property through future sales.

OR

Create a new easement agreement, one which would mimic or closely resemble those easement agreements made with our down pipeline neighbors. I have provided a copy of the agreement the town of Mancos has made with Robbins.

I have also taken the liberty of writing up these two options so that you may have an opportunity to peruse and compare them.

We thank you for your time and consideration concerning this matter, and we hope to resolve this issue as soon as possible.

Corey Hiseler
541-380-1161
corey@windguide.com

Mark Worth
541-490-4401
mark@windguide.com