

DRAFT

**TOWN OF ARRIBA
BOARD OF TRUSTEES MEETING
Monday, October 12, 2015
Arriba Town Hall, 711 Front Street, Arriba, CO 80804**

Call to Order Mayor Pro-tem Troy McCue called the meeting to order at 7:33. Roll call for the Arriba Town Board was read and those answering were Karen Kovar, Jody Schifferns, Will Rowe, Caleb Brent and Marcella Flores. Alex Flores was absent.

Pledge of Allegiance was led by Mayor Pro-tem Troy McCue.

Public Audience included: Jeff Fike, Gerald & Carolyn Steinsiek, Ted Grundmeier, Michael Shirley Jay Spurling, Jerry Norris, Ed E. Schifferns, Louise Skipper, Beverley Langley, Dianne Reisman, Colleen Luft, Tom Cassady, Jack Rowe.

Dianne Reisman said that Mrs. Schifferns had notified her that workers would be replacing her roof, she at no time asked if they could access her (Dianne Reisman's) yard. The workers did access her yard without asking and also dropped large pieces of sharp metal into her yard along with other construction trash directly where the Reisman's service dog was standing. She said the workers did not pick up their trash, she did for the safety of her dog. Several days later the workers were back, they were in the front corner of the Schifferns house by the Reismans yard and where their dog was. She said her husband, Doug Reisman, went out and spoke to the men asking that they first obtain permission to access the yard, stop dropping sharp pieces of metal and other construction debris into to the yard, and to clean up any mess they made. Dianne Reisman said she would like a letter of warning to be sent to the Schifferns stating their responsibility in this matter. She said if this type of behavior continues or happens again they will take legal and appropriate action. Their service dog is a tremendous value to them and they would hate to have to train another service dog. Dianne Reisman stated that her husband was deaf without hearing aids and cannot even hear a smoke alarm. She said she works hours and hours every single day training their dog, even if that were not the case the workers were out of line. She said she doesn't believe for one second that either Mr. or Mrs. Schifferns knew of their behavior, however, she said she'd had no say so in what went on the first 20 days that she was living in her house, and she was threatened with legal action by the Town Board, without a signature, because there was construction debris pilling up next to her house on the opposite side of where the Schifferns house was. Dianne Reisman said since this is the way business is done in this town she asked that a letter be sent to the Schifferns.

Beverley Langley said that at the last meeting the Board voted on her sewer issue, but she'd like to bring to the Board attention that on Ordinance 114 says that (sewer) charges should be certified with the county and a lien placed on the property, which was not done for her property. She said that after researching who had paid sewer tap fees and who had not she had found that a number of men did not have to pay the sewer tap fees, but the women have had to pay their sewer tap fees. Beverley Langley felt that the Town Board was discriminating against women.

Jay Spurling said he would like to see a chip seal on the streets. He would like to see Arriba be a little more business friendly. He'd like to put in a BBQ place that serves beer and wine. He thinks people in this town are lacking for entertainments and a good place to eat. He said have people come off the highway and have places for trucks to park, just more business for the Town.

Jeff Fike said that he has an initiative that has been circulating around Town that has been approved by the Town Clerk and by the Town Attorney. He said it was about the citizens having a say on what happens to the town's ordinance from here forward- if his initiative passes- when the Board makes an ordinance and works it down then it will go to the next regularly scheduled election which the Town holds every April in even numbered years so one year the town would elect 3 trustees (like the town will in 2016) and in 2018 the town will elect 3 trustees and a mayor and at that same time the town will vote on any new ordinances or any changes to existing ordinances. If there is an emergency a special election can be held pursuant to Colorado law. Jeff Fike read the second page of his Initiative Petition as follows: WHEREAS, The People of the Town of Arriba, Lincoln County, Colorado, Pursuant to the Constitution of the State of Colorado, Section 1, Article II: "In order to assert our rights, acknowledge our duties, and proclaim the principles upon which our government is founded, we declare: All political power is vested in and derived from the people; all government, of right, originates from the people, is founded upon their will only, and is instituted solely for the good of the whole". It is the Intent of this Ordinance to preserve the right granted by the Constitution, State of Colorado, for the people to govern themselves, which is hereby affirmed as a right reserved by the People of the Town of Arriba. NOW, THEREFORE, BE IT ORDAINED BY THE QUALIFIED ELECTORS OF THE TOWN OF ARRIBA, LINCOLN COUNTY, COLORADO: Section 1. That all new, Town of Arriba Ordinances, or the Modification of an existing Town of Arriba Ordinance be brought to a general public vote, of qualified Arriba Electors: at the next regular or special election for the Town of Arriba, Lincoln County, Colorado. Section 2. All new, Town of Arriba Ordinance, or the Modification of an existing Ordinance shall be brought to a public vote at the next regularly scheduled General Election, historically held in even numbered years. In the event a Special Election is deemed required, it shall be held as prescribed by Colorado Law.

Immediately upon its passage, this Ordinance shall be recorded in the Town of Arriba Book of Ordinances kept for that purpose, authenticated by the signatures of the Mayor and Clerk, and shall be published as required by law, and additionally published to the Town of Arriba website.

Clerk Hart clarified that she and the Town's Attorney had approved the form of the petition to circulate. Because it was approved to form does not mean the Town Clerk or Town Attorney endorses the content of the petition.

Jeff Fike said that residents of Arriba can register to vote at govotecolorado.com.

Jeff Fike said that he have been working with Josie Hart a lot and he felt it was not possible to do some of the things records wise that should be done on the schedule she has. He thought that the Town should have a full time clerk, paid full time wages and put the benefits package together with the maintenance man.

Jeff Fike said that by the rules you need 24 hours' notice to get on the Agenda. If the agenda goes out at 4:45 on a Friday the people can't add anything. He suggested putting it out 24 hours prior to the meeting on a workday where the people can add to it.

Clerk Hart read a letter from Kenny Mills, a copy of the letter is attached to these minutes.

Jeff Fike asked if someone owns a house in Arriba but is registered somewhere else was the Board going to give them the same treatment they gave Trustee Rowe.

Approval of Agenda Clerk Hart said that Maria Daniel had requested that Item 9C: 311 Colorado Sewer Issue be tabled until the November meeting as both she and Mike Becker were working tonight. Mayor Pro-tem McCue said that Item 9C would be removed. Trustee Rowe moved to approve the agenda as amended, Trustee Kovar seconded and the motion passed unanimously.

Approval of Minutes Trustee Schiffers moved to approve the minutes of the September 14 Regular Meeting. Trustee Brent seconded and the motion carried unanimously.

Approval of Accounts Receivable and Payable

The Board reviewed the Receivables and Payables for September.

Clerk Hart said the payment to Ted D. Miller was for the flow meter calibration out at the wastewater plant.

Trustee Kovar moved to approve the accounts Receivable and Payable for September. Trustee Brent seconded. Trustee Rowe voted no. Trustees Kovar, Schiffers, Brent and Flores voted yes. The motion carried unanimously.

It was asked what the official advertising paper for the Town of Arriba was. Mayor Pro-tem McCue said that it was the Limon Leader. Trustee Kovar said that it was that or Eastern Colorado Plainsman, they used to alternate years.

Approval of Bills

Trustee Rowe asked why the Town advertised in 3 different papers. Clerk Hart said that legally the Town has to advertise in a paper within the same county. The Town usually advertises in the Flagler News as a complimentary thing because most Arriba Residents read the Flagler News. Clerk Hart didn't think there was one Town designated paper. Trustee Schiffers asked her to find out if the Town could just designate one in county paper for the Town's advertising.

The Board reviewed the October bills.

Trustee Brent moved to approve paying of the October bills. Trustee Kovar seconded and the motion carried unanimously.

Proposed Mobile Home Ordinance-Revisions Clerk Hart said that she just made the few correction that had been noted at the last meeting. She added the fee schedule and the application from the original mobile home ordinance. She said that at the last meeting people had said they wanted more explanation and more wording, more definition not to leave it to Board discretion. She thought the Board needed to have a work session to go through proposed ordinance section by section, and to section it out by mobile homes and RV's. Clerk Hart said she did find out the Town does not have to have a building code with HUD stamped mobile homes, manufactured homes, or RV's, there would have to be a building code for modular homes. Clerk Hart said that the reason she has not circulated the proposed ordinance after making the corrections was because she felt that the ordinance needs to go to a work session. It was noted that the proposed ordinance would not be adopted tonight as it would have to have another hearing before it was adopted. Trustee Rowe moved to table the proposed mobile home ordinance until the best opportune time to revisit it. Trustee Brent seconded and the motion passed unanimously.

Franchise Agreement with KC Electric Mayor Pro-Tem McCue read the KC Electric Franchise agreement ordinance, a copy of the ordinance is attached to these minutes.

There is no change from the last agreement, this agreement is for 25 years. A hearing will be held on November 9th at 7:00pm.

Jay Spurling said he felt that a 5 year contract would be more equitable for the Town. He asked what KC Eclectic was doing for their contract, such as replacing poles, lines and putting in LED lights.

Jeff Fike agreed with Jay Spurling.

Code Enforcement –Property Cleanup There were no new items on this.

It was noted that Bob Rush had been tearing down the trailer at the campground.

2016 Proposed Budget Clerk Hart presented the Proposed 2016 Budget. She said she had increased a few of the 2016 Budget line items based on what was spent in 2014 and 2015. She said that the Town always budgets around \$3,000 to transfer to the reserve funds, she said that she would like to get those transfers made before the end of the year. Clerk Hart addressed Jeff Fike's idea of the Town Clerk's position going full time. She said she was not opposed to it, but she didn't think there was enough work for 5 full days, she wondered if 4 days would be enough and if it would still be considered full time. It was noted that a minimum of 32 hours was considered full time. She said that the Town could go ahead and budget for a full 5 days. She said that with the election next year and a possible full audit next year she might have to work more days anyway.

The Board will be addressing changes to the budget at the November regular meeting, will hold a Budget Hearing in December and will pass it after the hearing. Trustee Schiffers said that the budget has to be adopted by December 16th.

Jay Spurling felt that the Town's records need to be streamlined. All documents needed to be either scanned and put online or a system. He thought the Town Clerk could be working on this if she worked full time hours.

Clerk Hart told the Board to study the budget and note any changes to bring up at the next meeting.

Trustee Schiffers moved to accept the first reading of the proposed 2016 budget. Trustee Rowe seconded and the motion passed unanimously.

Amend Marijuana Ordinance #138 Mayor Pro-tem McCue said that the Board had passed a Marijuana Ordinance that expires in 2017. Trustee Rowe said that he thought the ordinance was missing pieces that are fairly significant. According to the ordinance anyone in violation will be charged \$500 a day and there is no provisions in the ordinance for injunctive relief or to stop a business. Trustee Rowe said that Arriba is the only town between Kansas and Denver that has a moratorium instead of a prohibition on marijuana. Trustee Rowe said he felt the Board needed to look at the ordinance and decide whether the Town was going to let the moratorium stay in place or rewrite and put enforcement mechanisms in, or if the Town needed to start looking at government studies and letting a business come in.

Jay Spurling said that there are billions of dollars to be made for the Town of Arriba if marijuana was made legal in Town. He said he was not a proponent of it, but he was not opposed to it either.

Mayor Pro-tem McCue said that the Lincoln County has a prohibition on Marijuana.

Clerk Hart said that she has talked to a few different town clerks of small and medium sized towns, and those towns that have legalized marijuana, they're return on the taxes was not as great as expected, one town ended up spending more money on the security they had to hire because of the marijuana stores than they were getting from marijuana sales.

Trustee Rowe said he did get a few examples of provisions that they would need to include if they did rewrite the ordinance. He felt that the current ordinance was non workable. He suggested the Board look at the sample marijuana ordinances he had found.

Maintenance Leroy King had a written report of what he has worked on the past month (by mention the report is a part of these minutes).

Trustee Rowe mentioned remembering to check the heat in the park building after the seniors meet for lunch.

Leroy King said he would be taking vacation time starting October 27 through October 30th to work at the Haunted House, and November 3rd through November 6th for a court hearing. He said he would be checking on Town things throughout those 2 weeks.

Clerks Report Clerk Hart said that there would be a CIRSA appraiser coming out Wednesday morning to look over everything.

Clerk Hart said that there were a bit of changes to the whole election procedure, she wasn't too sure of it yet but it looks like the timelines are a couple months earlier now. She said she has to have the ad for candidates out in December, nomination petitions will be out in January. She said that it was suggested at the last election that Arriba may want to do a mail ballot election, she hasn't gotten all the timelines and regulations for that but asked the Board to be thinking about that.

She said that truck drivers have been complaining to Pam Koehn at the grain elevator about the washboards on the truck route, she said she noticed the turn from College Ave onto Main Street was really rough.

Treasurers Report Trustee Schifferns gave the Treasurer's report that Pam Koehn had prepared to the Board.

Trustees Report Trustee Brent said that in regards to Dianne Reisman's comments he thought that it wasn't appropriate the way the Town handled the Reisman's situation and he felt it wouldn't be appropriate for the Town to send a letter to the Schifferns. He said that the Town should handle cleanup issues in a different manner that's friendlier and that could get the Town better results.

It was noted that because of the holidays there probably won't be an action meeting until after December.

Trustee Schifferns said that she would like another sign purchased for the brush pile that says 'Burnables Only'. She said that people are taking all sorts of trash to the brush pile when there should be only burnable wood, tree limbs and grass clipping being dumped up there.

Trustee Schifferns addressed Dianne Reisman, she said she wished Dianne had called her and let her know what was going on because she would have taken care of it (the workers and debris). Dianne Reisman said she was following the example that Trustee Schifferns had shown her last year.

Trustee Kovar said she felt it was inappropriate to bring personal disputes into the Town Council.

Mayor Pro-tem McCue said that he has been very busy with LCEDC. He said he has had a lot of conversation with Arriba businesses. He has been attending all town board meetings as time allows. He said LCEDC was addressing issues of highway dollars and trying to attract investments on north and south corridors across the United States especially 71, and though it's a good highway, it has narrow shoulders. He said the goal is to turn these corridors in to truck worthy routes and to improve the flow of traffic on the Front Range. He said making life better for the towns along those corridors is an additional challenge, he has been trying to work with the Town of Hugo on doing a hotel study and also working on looking at some housing modules. He said there has been a little bit of interest in the Foreign Trade Zone that recently was approved.

Mayors Report none.

Adjournment Trustee Rowe moved to adjourn the meeting, Trustee Kovar seconded and the motion carried unanimously. Mayor Pro-tem McCue adjourned the meeting at 9:04pm.

Submitted by: Josie Hart, Arriba Town Clerk

Signed by:

Mayor Pro-Tem McCue

Approved by the Board on:

Email from Kenny Mills

Hi Josie, and town board of Arriba.

I want to be included as a signor on the petition to have a public vote on any new proposed ordinances. I am working out of town this week but I wanted to register my support for the voice of the people.

A reactionary board member may say, "It will cost too much" to vote on the laws we want to impose on the people". This is not a true statement. It won't cost a dime if we set all new laws up on a scheduled ballot. After all what is the hurry? The only reason to rush to add laws is to trick the electorate in to it before they can react. This new referendum will guarantee citizen involvement.

Do you have a means for me to sign this petition, restricting the writing of new laws? If so please send it to me via this e-mail and I will return it.
Also please read this e-mail at the next scheduled meeting.

Thank you

Kenny

AN ORDINANCE GRANTING A FRANCHISE TO K.C. ELECTRIC ASSOCIATION, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE AND MAINTAIN AN ELECTRIC SYSTEM IN THE TOWN OF ARRIBA, INCORPORATED, AND TO USE THE STREETS OR ALLEYS OF THE TOWN FOR SUCH PURPOSES, AND IMPOSING A SURCHARGED FRANCHISE FEE OF FIVE PERCENT, THE ORDINANCE DOES REPEAL ORDINANCE NO. 107

WHEREAS, K.C. Electric Association, a cooperative corporation, organized and existing under the laws of the State of Colorado, hereinafter termed the "Cooperative" has heretofore and is now operating and maintaining an electric system within the Town of Arriba, Incorporated, hereinafter termed the "Town" under an electric franchise and subsequently assigned to this cooperative; and

WHEREAS, the said cooperative has made or may make extensive additions, alterations and improvements in the said system for the maintenance of the electric lines and facilities within said Town; and

WHEREAS, it would be to the mutual benefit of the Town and the cooperative to have the electric system of the Town maintained and would further be to the mutual benefit of the Town and the cooperative for the Board of Trustees to grant a franchise to the cooperative to construct, operate and maintain an electric system on terms that will assure the full control and use of the streets or alleys to the public, the safety of the persons and property of the public so far as the maintenance of the system is concerned and the continuity of service upon the same classifications of service in the Town as the classifications of service in other towns served by the cooperative and upon the same rates and charges for electric service to consumers and users in the Town in each classification as the rates and charges of the cooperative in other towns of the same class served by it; and

WHEREAS, the cooperative has duly published its intention of applying for a franchise as provided by law,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF ARRIBA, INCORPORATED, STATE OF COLORADO:

That K.C. Electric Association, its successors and assigns, is hereby granted a franchise:

(a) To construct, operate and maintain an electric system with all fixtures and appurtenances necessary or advisable for the proper operation and maintenance of said system within the limits of the Town in order to supply power for public and private use within the Town and for the transmission of electricity through and beyond the Town,

(b) To use the streets and alleys and public places of the Town for such purposes; and

(c) To cut and trim all trees and shrubbery insofar as may be necessary to keep them clear of the poles and wires of the electric system and to make all necessary excavation in the public streets, roads, alleys or other public thoroughfares;

(d) To furnish electric energy for public and private use within the Town and to transmit electricity through and beyond the Town.

This franchise is granted upon the following terms:

First: The electric system shall be constructed, operated and maintained in a proper workmanlike manner so as to afford all reasonable safeguards to the public.

Second: All poles, wires, transformers, substations and other facilities of every kind and nature, forming a part of said electric system, shall be so erected, operated and maintained so as not to interfere with traffic on the traveled portions of the streets or alleys; and the cooperative, after the construction or reconstruction of said electric system, or any part thereof, shall restore as close to their original condition the streets or alleys on which said poles, wires, transformers, substations and other facilities have been erected, operated and maintained insofar as this is practicable. If the Town desires to relocate any electric system, such relocation shall be done at the sole expense of the Town.

Third: The Cooperative will comply with all reasonable rules and regulations of the municipality and with all ordinances now in effect or which may hereafter be passed insofar as they do not conflict with the terms or purposes of the franchise herein granted.

Fourth: This franchise shall be effective for a period of twenty-five (25) years, measured from the date of the final passage of the Ordinance granting this franchise.

Fifth: The Board of Trustees of the Town, as a condition for granting this franchise by Ordinance, have heretofore determined that the best interest of the Town and its inhabitants and consumers will be best served by imposing a franchise fee on the gross revenue derived by the cooperative from the sale of electric power to the inhabitants and consumers of the Town, the Town being exempt from such franchise fee.

Therefore, there is hereby imposed a franchise fee equal to five percent (5%) of the gross revenue derived by the cooperative from the gross sale of electric power to the inhabitants and consumers of the Town, excluding the gross revenue derived by the cooperative from the sale of electric power to the Town.

The payment of the franchise fee being surcharged to the inhabitants and consumers of the town and imposed upon the gross revenue received by the cooperative from the sale of electric power to the inhabitants and consumers of the Town shall be paid to the Town on a quarterly basis. At the time such

quarterly payment is made, the cooperative shall file with the quarterly payment a certification of such revenue. The effective date of the imposition of the franchise fee shall be the effective date of this franchise by Ordinance.

In the event any applicable legislation or final Order of Court were to subsequently prevent the payment of the franchise fee, the parties agree to revise this agreement so as to otherwise allow for compensation to be paid to the Town for the use of its streets, alleys, and public ways in an amount comparable to the historical sum paid as a franchise fee.

Sixth: The classification of service in the Town will be the same as the classification of service in other towns served by the cooperative and the rates and charges for electric service to consumers and users in the Town in each classification will be the same as the rates and charges of the cooperative in other towns of the same class served by the cooperative.

Seventh: The Cooperative shall hold the Town harmless from any and all claims, actions, litigations or damages proximately caused by the negligence of the Cooperative, its agents or employees in construction, reconstruction, service when needed, maintenance or operation of the Cooperative's electric distribution system located within the boundaries of the Town.

Eighth: This Ordinance was considered passed and adopted in accordance with the provisions of the Colorado Revised Statutes 31-32-101 through 105 and shall be in full force and effect upon its passage and the cooperative filing its written acceptance with the Town.

Passed and adopted this _____ day of _____, 2015.

Alex Flores, Mayor

Attested:

Josie Hart, Town Clerk of the Town of Arriba

Maintenance Report

- 9-15 Started water on park
Picked up new refrigerator for wastewater plant
Washed out 218 Park St sewer line
- 9-16 Collected water samples to be taken to the lab
Filled chlorine tank at wastewater plant
Took chlorine and ph. Test
Put CAUTION TIRES MAY BE HOT signs in playground
- 9-17 Sent samples to the lab
Worked on lights in park
- 9-21 Worked in shop
- 9-22 Sprayed weeds in the park
Worked in the shop
- 9-23 Took chlorine and ph. Tests
Worked in shop
Turned water on at park
- 9-24 Trimmed trees in park
- 9-25 Filled chlorine tank at wastewater plant
Trimmed more trees at park
Sprayed willow trees at wastewater plant
- 9-28 Dump trash can in park
Worked at wastewater plant
- 9-29 Worked in the shop
- 9-30 Took chlorine and ph. Tests
Worked at wastewater plant
Read well meters
- 10-1 Read water meters
Worked in shop
- 10-2 Filled chlorine tank at wastewater plant
Turned water on at 104 Elm street
Worked in shop
- 10-5 Worked at wastewater plant
- 10-6 Worked in shop
- 10-7 Took chlorine and ph. Test
Turned water off at 321 Curtis
Worked at wastewater plant

Maintenance Report

- 10-8 Ordered new sink for restroom in town hall
Worked at wastewater plant
- 10-9 Filled chlorine tank at wastewater plant
Repaired faucet in restroom of town hall
- 10-12 Worked at wastewater plant
Worked in park