

TOWN OF RYE
RECORD OF PROCEEDINGS
September 8, 2021

Call to Order/Roll Call

Mayor Marty Rahl called the Regular Monthly Board Meeting to order at 6:02 pm at the Town Hall at 2067 Main Street in Rye, Colorado. Those in attendance were as follows: Marty Rahl, Mayor; Sheila Henderson, Mayor Protem; Sandra Steele, Trustee; Levi Bernal, Trustee; Patrick Ryan, Trustee; Larry Sisk, Trustee; Markus Buck, Trustee; and Sherri Beach, Clerk. Also present were Greg Colter, ORC; and Kathleen Cassidy and Nancy Romine of Greenhorn Valley Backpacks. The Pledge of Allegiance was recited.

Audience Participation

Shelley Beierle did not attend tonight's meeting to discuss upgrading her meter from $\frac{3}{4}$ " to 1 $\frac{1}{2}$ " or 2" line, though she had requested to be put on the agenda.

Nancy Romine and Kathleen Cassidy addressed the board and asked for a donation for the Greenhorn Valley Backpacks. They explained that school supplies and clothing are purchased for less fortunate children in the valley. Sheila Henderson made a motion that the Town of Rye mail a \$1,000 check to the Greenhorn Valley Backpacks. Sandra Steele seconded. Those voting in agreement of the motion were: Sheila Henderson, Levi Bernal, Sandra Steele, Patrick Ryan, and Markus Buck. Those voting against the motion were Larry Sisk. The motion carried, and Sherri Beach was instructed to mail a check to Greenhorn Valley Backpacks c/o Nancy Romine's post office box.

Consent Agenda Items

- Sheila Henderson made a motion that the Minutes of the August 11, 2021, regular Board of Trustees Meeting be approved. Larry Sisk seconded. Those voting in agreement of the motion were: Sheila Henderson, Levi Bernal, Sandra Steele, Larry Sisk, Patrick Ryan, and Markus Buck. The motion passed.
- The Water Treatment Plant Executive Report was presented to the Board. Greg Colter, Operator in Responsible Charge, informed the Board that the block and bleed for the CIP is in place. Paul Hanson, Inspector for CDPHE, has cleared the enforcement order. Our TTHM and HAA5 reads came back high. This was a non-compliance sample. The high reads are due to high TOC's. We will have a violation to report in October's billing, and Greg will get the violation notice to Sherri to mail with the bills. Matt with Element Engineering is processing the data and will be filing the required reporting that is due on September 14, 2021, with the CDPHE. Element Engineering is finishing a PAC filter that will take out the TOCs before the membrane filtration system. They are also working on completing the OCCT plan for lead and copper. We need to complete water sampling this month for requirement purposes. Tank #1 is back in service and is filled with 40,000 gallons of water, bringing the storage capacity of water to approximately 113,000 gallons between the tanks. Greg encouraged the trustees to wait before

ordering equipment until the engineers tell us exactly what is needed, and he recommended voting to approve the purchase of a Total Organic Carbon Set (\$541), Digital Reactor (\$1,115), and Replacement COD/Test'N Tube Adapter (\$28.85) for a total of \$1,699.44 from a quote from USABlueBook dated 8/18/21 so it will be ready to order as soon as the engineer gives the approval. Markus Buck made a motion that we obtain two additional quotes from Hack and Granger so the trustees can do a price comparison prior to voting to purchase the items. Larry Sisk Seconded. Those voting in agreement of the motion were: Sheila Henderson, Levi Bernal, Sandra Steele, Larry Sisk, Patrick Ryan, and Markus Buck. The motion passed. Sherri is to include the three quotes in the next board of trustees meeting packets. Larry Sisk asked Greg about the concrete lining and drain at the headworks. Greg said it still needs to be done and suggested that the Town wait on this until all our current projects are complete, and at that time Sherri will be asked to contact Hanson Construction for a new proposal that includes a detailed statement of work and date to be completed. Greg mentioned that when the time comes, we can discuss the project with Ben Keilly at CDPHE and Nick at Element Engineering to get the necessary requirements and obtain information for finding funds via grants to help pay for the project. Sherri Beach reported that she has submitted all certificates for BPCC to Greg for filing, and the only one missing is for account #111. Dutch Mead will be scheduling a time with Chief Bennett to get the inspection done within the next week or so. Dutch has agreed to assist the new ORC with the BPCC process, if necessary. Greg informed the board that he will begin employment with Colorado Rural Water Association and will be leaving his ORC position with the Town of Rye on September 30, 2021. Marty Rahl stated that she spoke with Chuck Goins of Colorado Rural Water and received a list of ORCs who may be interested in the open position at the Town of Rye. She said that she added Dave Lewis' name to the list, as he also works with Beulah and CCMD. Greg said that when contacting the names on the list, we need to be sure they know they 1) must have a B water certification, 2) have a small systems wastewater certification and 3) must have a class 2 distribution license. They will be responsible for working with the State of Colorado, filing all reports, and maintaining records. He also said to let them know that we have two highly qualified operators, Gib Rokich and Madison Rokich, who take care of all the reporting, daily work, testing, submittals to the portal, and record keeping. The Town of Rye just needs someone to be responsible to sign off and give advice and leadership to Gib and Madison. Larry Sisk agreed to call the names on the list provided by Chuck Goins and ask the ORCs of their interest in the open position. Greg stated that the position must be filled within 30 days of his leaving to avoid issues with the State.

- The Water and Sewer Monthly Meter Usage (Billing Register) was reviewed. Sherri Beach reported that she called accounts #5, 16, and 25 about their high-water usages. Each confirmed that they did, indeed, use the water and are responsible for payment. Account #17 called and requested that Gib Rokich meet with the property owner to investigate the meter and the property for malfunction and/or leaks. Gib told Sherri he had contacted the owner. Sherri was asked to have Gib confirm the meter information for account #116 because people are staying in the residence but there was no water usage shown last month.
- The Town of Rye Summary of Accounts, RVS Systems Totals Report and CCMD Sewer Flow Chart were reviewed. Sherri Beach noted that the Summary of Accounts did not reflect the information provided with Greg's Executive Report, as it had not been received prior to the meeting. It will be entered onto the form for next month.

- The Summary Aged Receivables were discussed. Past due accounts were called by Sherri Beach and reminded of their late due accounts. They were informed of the past due balance as well as the current due balance. Accounts #27, 103, and 108 paid their accounts in full this afternoon.
- Sheila Henderson made a motion that the Accounts Payable/Transfer of Funds from appropriate accounts be paid and that appropriate funds be transferred per the Checks Written form, to include the repayment of \$1,048.00 from HUTF to General Fund for the payment of signs and striping the roadway. Patrick Ryan seconded. Those voting in agreement of the motion were: Sheila Henderson, Levi Bernal, Sandra Steele, Larry Sisk, Patrick Ryan, and Markus Buck. The motion passed.
- The Board reviewed the Profit & Loss and Balance Sheets.
- The Master Calendar was reviewed.

Unfinished Business

Marty Rahl informed the board that she, Sheila Henderson, and Sherri Beach worked with Chris Branderwei of RCAC on the water/sewer rate study via internet on September 3, 2021. They will meet again in person on September 17, 2021, to try to finalize the water/sewer rate structure so it can be presented to the board at the next monthly meeting.

Sherri Beach reported that a response was received from account #105 concerning illegal water and sewer taps. They have proposed paying the Town of Rye \$5,000 as a good faith gesture to settle the issue. She also gave the board the recommendation email of the attorney dated September 7, 2021. Following discussion, Sherri was instructed by the board to contact the attorney and have her write a letter on their letterhead stating that "1) we counter with \$15,000 (for illegally tapping into the sewer), 2) they have to sign a settlement agreement that this is it, no more putting in (water or sewer) taps or connections that they believe they purchased from the seller, 3) Any future connections and/or taps are to be purchased through the Town of Rye as stated in the policy, and 4) they are strictly liable and responsible for 100% of any and all problems with the taps, connections and lines that they have installed – not the Town of Rye" per the attorney's email to us. Note the () in items one and two are added wording that the board would like to have included in the letter to account #105. The Town of Rye would like to add that the property owner is always welcome to attend any meetings to address any questions or concerns. In addition, they would like to state that the \$15,000 amount due can be divided between three consecutive months if needed, for a total of \$5,000 per month to be paid to the Town of Rye. Sherri was asked to forward the Ordinance 2020-9 to the attorney to confirm that the language protects the Town. If there are changes that need to be made, do we need to "vacate" and start over with a new ordinance, can we just make an addendum? We want the Ordinance to be very clear and not "muddy." Markus Buck volunteered to assist with the ordinance, if necessary.

Marty Rahl told the board that she received confirmation that the Town of Rye did not receive a grant for the repair or replacement of sidewalks through CDOT Main Streets Revitalization. She will reach out to find out what we could do differently to improve our chances of being considered. She will report her findings to the board next month.

The board of trustees reviewed notes they made on Ordinance 2021-3 for Public Nuisance. Sherri Beach was instructed to type the Ordinance with the proposed changes to be reviewed again at next month's meeting.

Sherri Beach reported that she filed two claims with CIRSA for flood events in the Town of Rye. The first was on July 7, 2021, and the second was July 31, 2021. An invoice has been received from Hanson Construction in the amount of \$4,450.00 for the combined events for the cleanup of silt and debris at the head gate area, cleaning out silt from the basin multiple times, purchasing boulders and resetting the dam in the creek to divert water into the head gate for the Town's water supply, and removal of debris from roadways. This invoice was paid in tonight's payables. Sherri has been working with Craig Stevens, and both claims have been deemed covered by CIRSA. A check in the amount of \$3,425.00 has already been processed for the July 31, 2021, event. A check in the amount of \$1,025.00 will be processed tomorrow for the July 7, 2021, event. CIRSA will be mailing an invoice for \$500 deductible for each event next month. Sherri was instructed to ask Gib Rokich to always take photos of damage before projects are done, during, and after completion for insurance and Town of Rye purposes.

Reports

Accountant/CPA Update:

Attorney Update:

Per the attorney email recommendation, Sherri Beach was asked by the board to have Gib Rokich inspect the flumes, bridges, and the Greenhorn Creek quarterly to monitor the need for creek mitigation. This item will also be placed on the Master Calendar for quarterly inspection.

Sherri Beach was asked to reach out to the attorney to ask about solidifying our water and sewer tap/connection records. She is to ask about their recommendation for the board of trustees visiting properties to ensure an accurate accounting of the number of efficiency residences, and water/sewer taps/connections on each property. Levi Bernal and Patrick Ryan have volunteered to walk through each property, if legally acceptable, to count efficiency units (cabins, RVs, etc.), the number of taps/connections, and to begin a manual GPS system for tracking and documenting.

The attorney informed the board via email that generally moratoriums are for about 6-month periods of time. To have a moratorium concerning water/sewer taps, the Town of Rye would need to research and set out findings of fact as to the necessity of a moratorium (i.e., drought). At this time, after reviewing pertinent data, they believe Rye is in good shape and they would not recommend having a moratorium. The board agreed to waiting.

Regarding the sale of the lagoon property, the attorney informed the board via email that we are looking out for the best for the community, and they suggested quietly obtaining an appraisal of the property. Once a good price is established, they would suggest that Rye post a request for proposals so that it opens the offer to sell to the public. It would clearly need to be understood that the property is being sold "as is," any inspections are up to the parties, etc. The board agreed to wait until after the

gentleman from Tilson comes to evaluate the property for a cell tower prior to next month's meeting. Patrick Ryan and Sheila Henderson voiced an interest in walking through the property with Mr. Perlman.

In an email from the attorney, the Town of Rye is encouraged not to publish specific identifying information concerning residents or businesses in the minutes or agendas on the Town website. They recommend use of account numbers, as is done in the public meetings. Marty Rahl stated that she will request access to the website so Sherri Beach can begin posting ordinances and resolutions, as Madison Rokich is unable to. Sherri can then begin to post current agendas and meeting minutes after she has been approved and gains access.

Trustee Updates:

Larry Sisk asked if the Town of Rye has As-Builts for our water and sewer systems that show all the changes, modifications, and up-to-date information. Marty Rahl gave him the contact information for JVA Consulting Engineers. Larry will contact Shane White to request these documents.

Staff Updates:

Per board instruction last month, Sherri Beach reached out to other clerks to find about the possibility of erecting a cell tower as a revenue source for the general fund. She received Adam Perlman's contact information from the clerk of Westcliffe. Adam of Tilson Infrastructure submitted a letter and a letter of intent, which was shared with the board. Adam spoke with Sherri on the phone and asked to come to the Town of Rye prior to the October 13, 2021, board meeting to walk through and evaluate the lagoon property and possibly other Town properties for the purpose of erecting of a cell tower. Following discussion, Sherri was asked to schedule the walkthrough prior to the next meeting. Patrick Ryan, Markus Buck, and Sheila Henderson expressed an interest in walking through the property with Mr. Perlman. Mr. Perlman can then address the board during the public comment section of the agenda if he so wishes. Markus Buck will be researching the health implications of erecting such a tower so close to the Town of Rye and report his findings next month.

Sherri Beach instructed the board that the order to suspend water service to account #6 has been suspended by Pueblo County Health Department. The resident has resolved the sewer issue on the property, and the health department has inspected and approved it.

Per board instruction last month, Sherri Beach reached out to other clerks to ask about the possibility of the Town of Rye opening a museum that features Native American history and artifacts from the area in the Town Hall. She received many responses encouraging the Town not to get involved in this type of endeavor to avoid future lawsuits and conflict with a variety of ethnic groups. The board agreed to not undertake a museum in the Town Hall.

Per board instruction last month, Sherri Beach reached out to other clerks to ask for advice concerning Air B&Bs in the Town. CML Law Clerk Megan Decker, emailed a compiled list of STR ordinances from other municipalities as well as a bit of research she did about how to tax an STR. This information was given to the board to review in their board packets. Sherri also received several recommendations from

other clerks that include: 1) requiring Air B&Bs to be in a primary residence and the homeowner can stay in the home while having a guest or guests at the same time, can have guests in the home and then stay at a friend's or relative's home while guests are there, can have guests in the home while they are traveling for work or on vacation, or allow guests while they are temporarily residing at a different location; 2) several towns are in an emergency moratorium due to the rising number of STRs (short term rentals) in the towns impacting the rising house prices and limiting the rental opportunities for residents living within the towns; 3) allowing one air b&b per block or per square mile; 4) must be licensed and zoned, with only a certain number of licenses being issued (application fees, license fees, renewal fees, apply); 5) Town collect 10% of lodgers' tax; etc. After Sherri presented this information, Markus Buck volunteered to research Air B&Bs in the Westcliffe area and report his findings to the board next month.

Per board instruction last month, Sherri Beach obtained three quotes for water coolers for the office at the Town Hall. Patrick Ryan made a motion that a water cooler be purchased from Amazon.com in the amount of \$97.16. Larry Sisk seconded. Those voting in agreement of the motion were: Sheila Henderson, Levi Bernal, Sandra Steele, Larry Sisk, Patrick Ryan, and Markus Buck. The motion passed.

Per board instruction last month, Sherri Beach obtained four quotes for time clocks for the Water Treatment Plant. After discussion, the board agreed not to purchase a time clock, as employees at the WTP have a one-hour minimum of pay and there is no reason to clock in their time.

Sherri Beach drafted and printed a letter to serve as a Notice of Violation of Ordinance 2020-10 for account #37. She included a copy of the ordinance as well as a photo of the garbage outside the residence to be mailed. The mayor and all trustees signed the letter and instructed Sherri to mail it.

New Business

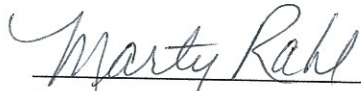
Following a brief discussion, the board agreed not to open the Town Hall for Halloween Town this year.

Larry Sisk made a motion to renegotiate Gib Rokich's and Madison Rokich's contracts. Levi Bernal seconded. Those voting in agreement of the motion were: Levi Bernal and Larry Sisk. Those opposed to the motion were: Sheila Henderson, Sandra Steele, Patrick Ryan, and Markus Buck. The motion failed.

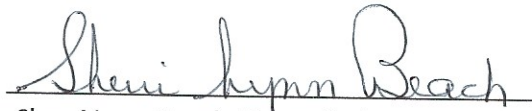
Larry Sisk made a motion that Madison Rokich NOT be paid mileage to come to work during the week or on weekends. Levi Bernal seconded. Those voting in agreement of the motion were: Levi Bernal, Larry Sisk, Patrick Ryan, and Markus Buck. Those abstaining their votes were: Sheila Henderson and Sandra Steele. The motion carried.

Adjournment

At 9:28 pm, Patrick Ryan made a motion that the Regular Board Meeting be adjourned. Markus Buck seconded. Those voting in agreement of the motion were: Those voting in agreement of the motion were: Sheila Henderson, Levi Bernal, Sandra Steele, Larry Sisk, Patrick Ryan, and Markus Buck. The motion passed.



Marty Rahl, Mayor



Sherri Lynn Beach, Town Clerk

**The Next Regular Session meeting will be held on
October 13, 2021, at 6:00 pm at the Town Hall at 2067 Main Street, Rye, CO 81069
Public is encouraged to attend**

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting the Rye Town Clerk at 719-489-2011. We would appreciate if you would contact us at last 48 hours in advance of scheduled events so arrangements can be made to locate the requested auxiliary aid(s).