

## Town of Lake Santeetlah

### Initial Draft Subject to Council Approval

#### Council Meeting Minutes

#### September 20, 2016

Acting Mayor Jim Hager called the meeting to order at 10:00AM. Council Members Bob Wehr, John Garland and Connie Gross were present for the meeting. Town Attorney M. Ellen Davis, Town Administrator Kim Matheson, Clerk Emily Hooper and Public Works Technician Eric Hayes were also present.

Acting Mayor Jim Hager briefly explained that the Planning Meeting on Friday September 15, 2016 lasted over two hours with approximately one hour and half of that being public comment. Today's meeting will allow comment following the financial report. Those who wish to speak will be allowed three minutes per agenda item and can only speak on three agenda items. This is according to the Town of Lake Santeetlah's Public Comment policy. No comments can be made after public comment has been closed unless authorized by the Mayor.

The first order of business was the approval of the agenda. With no additions or changes necessary Councilwoman Connie Gross made a motion of approval. Councilman Bob Wehr seconded. All others approved, the motion carried.

After review of the August 16, 2016 Council Meeting minutes there were no changes or additions necessary therefore Councilman Bob Wehr made a motion to approve. Councilman John Garland seconded. All others approved. The motion carried.

**Financial Report:** Town Administrator Kim Matheson reviewed the balance sheet through August 31, 2016. The general fund balance at this time is \$71,472.36. The water fund balance is \$16,381.92. \$31,052.49 has been collected for property taxes this fiscal year. \$9,191.94 has been collected in Sales and Use tax. All balances displayed include the carry-over from the previous year.

#### **Request for Public Comment:**

Dick Eyestone requested to make a general address to the Council. Mr. Eyestone spent many years working with both large and small companies giving him a broad range of experience. Mr. Eyestone has been a resident at Lake Santeetlah for several years and after reflecting back on past council's and his own work experience he shared three points of concern. Respect and trust are needed in the appropriate functioning of the Council. Whether private enterprise, municipal government or federal government when the officials at the top do not respect and trust one another the business or town is not functional. Mr. Eyestone has worked in organizations where this was the case and seen the effects firsthand. Common sense is necessary in all business. In the past, Mr. Eyestone pointed out that Lake Santeetlah had often ran by the spirit of the law rather than the letter of the law. A discussion at the Planning Meeting concerning an application for candidate vacancy that was posted on the website was argued to be legal or illegal. Mr. Eyestone argued that in this case common sense should come into play. "As a Town we need to understand what is important and not important and deal with only what is important." The final point is the "Mel Nelson rule." Soon after graduating from business school Mr. Eyestone was employed by a large company that used the "Mel Nelson rule" as a guideline. The rule stated that facts should never be argued and was employed by an administrator in the company named Mel Nelson. Facts are facts. At the recent planning meeting there was lots of discussion of laws, and having civilians discuss legal matters is much like watching seven year olds playing soccer according to Mr. Eyestone. There is lots of commotion and dust being stirred but no one scores. Mr. Eyestone suggested that the Town attempt to think about such points and when items are being argued, write them down and further research rather than argue. Appoint a representative to gather facts and come back with a report. This could eliminate lots of the "churning" that currently occurs.

Roger Schilf asked about the item on the agenda that had been verbally added at the Planning Meeting. #8 on New Business, The Resolution of Censure was verbally added therefore those who looked on the website at the agenda was unaware. Mr. Schilf asked who created the censure and pointed out that he felt it would be more appropriate to add items such as these prior to the meeting so residents could attend if desired. In the Council Meeting discussion and questions from the audience are limited and he felt uninformed of this resolution however could not receive clarification in the allotted time given today. Mr. Schilf asked that the restriction of public comment be waived for this particular item. Acting Mayor Jim Hager stated, that decision would be made at the time that item is discussed.

Steve Poole expounded on Mr. Schiff's question by clarifying that citizens were unable to prepare for the meetings when they are unaware of agenda items. Acting Mayor Jim Hager stated that the agenda may be amended on the day of the meeting. Attorney Ellen Davis shared the importance of composing an agenda during the Planning Meeting for the upcoming Council Meeting however the agenda can be amended at the meeting if necessary.

Councilwoman Connie Gross made a motion to close the Public Comment session of the meeting. Councilman Bob Wehr seconded. All others approved. The motion carried.

### **Old Business**

**#1 Removal of Steps on Town Property:** Town Administrator Kim Matheson reviewed an email sent from Town Attorney Ellen Davis stating that if the steps are within the Town limits the steps should be repaired or removed. If the Town chooses to contract the removal/repair of the steps they may do so with John Cochran, the homeowner who uses these steps for access to his dock. Mr. Cochran could replace the steps at his expense, following all codes and guidelines according to Attorney Davis without seeking additional bids as the job would be less than \$90,000 in expense, waiving this requirement for municipalities. Councilman John Garland clarified that the steps were built by a private individual but are located on Town property. The steps were in place prior to the Town becoming incorporated. Councilman John Garland suggested that the Town allow Mr. Cochran to re-place the steps and then release the Town of liability. M. Ellen Davis stated that, there is a bigger problem. The Town at some point should "tackle" ongoing issues. The Town continues to have issues arise from the past that were placed or created prior to the Town becoming incorporated when it was only a community. Once the Town incorporated despite being from the past Corporate Law Chapter 160A must be followed. According to the law a third party cannot release a corporation from liability. Councilman John Garland did not feel that Town funds should be used to re-place the steps for private use. M. Ellen Davis recommended that the Town accept a "gift" from Mr. Cochran by allowing him to re-place the steps and require them to be built to code. Mr. Garland is concerned that allowing Mr. Cochran to replace the steps will only lead to bigger problems as there are strips of Town property throughout the Town that other homeowners would potentially make requests to build on. Acting Mayor Jim Hager reviewed the recommendation of Attorney Davis to accept a gift from Mr. Cochran and send a formal letter from the Town explaining all the rules and guidelines according to the law to Mr. Cochran. Councilman Garland asked if anyone could use the steps once they were re-built and "gifted." Garland continued to stress his concern that there may be many strips of land that become an issue if this project is allowed. Attorney Davis agreed that this may be a larger issue" but should be dealt with one at a time according to Chapter 160A. Councilwoman Connie Gross reminded Mayor Hager of Resident Ralph Fette's request concerning access near his home at the Planning Meeting. Acting Mayor Jim Hager suggested that the Council continue to research and decide on an overall solution for residents interested in using Town Property for Lake Access. Any recommendations will go before the Town attorney before the residents are contacted. Councilman Bob Wehr made a motion to defer this item until further research has been completed. Councilwoman Connie Gross seconded. All others approved. The motion carried.

**#2 Water Meter Purchase Follow-up:** At last month's Council Meeting \$10,000 was allotted for the purchase of new water meters. Councilman Bob Wehr suggested that after the transfer of funds is completed properly the Town proceed with purchase so the meters could be installed while the weather is fair. With the funds allotted two

of the one inch meters could be purchased for \$550.00 and 50, 5/8 inch meters being a total of \$9650.00. If additional equipment is needed the number of meters may be adjusted slightly to remain under \$10,000. Councilwoman Connie Gross asked about software development research and if there were any decisions to make on that at this time. Councilman Bob Wehr explained that Dick Eyestone has offered his assistance in helping with research and after contacting several Towns there had been little satisfaction of any specific billing software. Anthony Brown, has confirmed that he is able to produce the software needed for water billing and will work closely with the Town in order to create the software according to our needs as well as offer support as needed to Town Staff. Councilman Wehr suggested that some of the Towns that are unhappy with their billing software may be interested in purchasing from Mr. Brown as well or sharing the cost with Lake Santeetlah. Resident Roger Carlton asked how priority would be set in accordance to meter placement. Councilman Bob Wehr shared that Public Works Technician Eric Hayes would be trusted to place the meters as he felt necessary. Until we purchase the Automatic Meter Reader and Billing software the meters will be read manually. Councilman John Garland asked what the plan was at this time to complete the purchase. Councilman Wehr explained that the Town hoped to move forward quickly and possibly attain a loan for the remainder of the meters and equipment. Stephanie Danforth stated that it would seem practical to place the new meters at the permanent resident's homes first. Councilman Wehr affirmed that the Council would allow Public Works Technician Eric Hayes make those decisions and if he had any questions he could ask the Council. Councilman Bob Wehr made a motion to proceed with the purchase of \$10,000 of new meters. Councilwoman Connie Gross seconded. All others approved. The motion carried.

**#3 Plans to proceed with Occupancy Tax:** Acting Mayor Jim Hager explained that Resident Stephanie Danforth had been asked to research and report back to the Council the pros and cons of Lake Santeetlah moving forward with the collection of a 3% Occupancy Tax. Mrs. Danforth gave a very informative presentation at the Planning Meeting of her findings that collecting the tax would not generate adequate income to make it justifiable. Mrs. Danforth also implied that a large portion of the funds collected must be used for tourism promotion and asked those present, do we really want to promote tourism at Lake Santeetlah? Councilman Bob Wehr further explained that we have enough facts at this time to agree that the tax would not justify the fees, work and audit involved however it is a possibility that Lake Santeetlah could contract with Graham County. Councilman Wehr has communicated with Graham County officials concerning Lake Santeetlah collecting the full 6% tax for an administration fee of a small undetermined amount and the remainder of funds would go to Graham County for the promotion of tourism. Mr. Wehr explained that Town staff would be more aware of who rents and potentially have the ability to collect more funds from the area than Graham County. There has been no feedback regarding this suggestion from Graham County at this time. Resident Danforth stressed again that personally she feels, "it's not about the numbers, it's about the flavor of our town. Do we want to spend one dollar to promote tourism?" Councilwoman Connie Gross asked for clarification regarding the resolution adopted if the Town was allowed to collect 6%. Mrs. Danforth explained that 6% is the total amount that can be collected whether that amount is split by the Town and County can be determined by a resolution. Attorney Davis stated that when the General Assembly granted, The Special Act for Occupancy Tax on June 22, 2015 a separate resolution is still needed for authority and appointment to collect. Despite who collects, the Resolution must be composed and adopted by Lake Santeetlah. Acting Mayor Jim Hager confirmed that the Town was not ready to proceed with any decisions at this time. Councilwoman Connie Gross thanked Mrs. Danforth for her hard work.

### **New Business**

**#1 Degarmo Refund Request:** Acting Mayor Jim Hager asked Mr. and Mrs. Degarmo if they had anything further to add from their presentation from last Friday's Planning Meeting. The Degarmo's had nothing further therefore Mayor Hager reviewed the issue for Councilman John Garland who was unable to attend the Planning Meeting. Acting Mayor Hager stated that this item will need further research by the attorney and a decision should be reached by the October board meeting. Councilman Bob Wehr explained that one issue at this time is the missing "application" of which Mrs. Degarmo says she never filled out. There are no records of this application, only a post-

it note explaining the fees due. Councilman John Garland recalled specific issues that occurred when the application was presented that caused a delay in approval therefore there was some type of package presented for the Council to review. Mrs. Degarmo stated that an as-built survey was turned in that showed the setbacks and corners. Councilwoman Connie Gross reviewed an email from M. Ellen Davis dated November 17, 2014. Gross asked Mrs. Davis if she was aware that the Council at that time did not follow her suggestions in that email on item number 3 or 4 (I have attached this email to these minutes for reference). Resident Roger Carlton, who was on the Council at the time of approval, was asked to search through his records hoping he could find information regarding the Degarmo's. Mr. Carlton stated that he was able to locate the agenda's from both the Planning and Council Meeting in which the Degarmo's application was presented and discussed. A handwritten note on the agenda near the item stated that the application would be approved subject to survey. Therefore Mr. Carlton added there are two issues: Was the survey completed and checked for compliance? If so, that becomes a non-issue according to Mr. Carlton. The request from the Degarmo's is a refund of the "impact fee" collected in the amount of \$3,747.00. The Town has spent a large amount of money on legal fees and research regarding the misused word – impact. The Town has consistently denied other request for refund simply stating that the fee was actually an application fee, but misworded as an impact fee and has since been corrected. Carlton argued that this should not be an issue. The request should be denied and is unsure why the Council would even consider such a refund. If however the funds are returned, Carlton stated that he could retrieve a letter that he wrote to Mayor Sheldon Singer when he was building his own home arguing that the \$4000-\$5000 impact fee that he had to pay when building was in fact not an impact fee. The money collected from an impact fee should be used for minimizing the effects of construction. Carlton was ignored and advised by his contractor to drop the argument in order to keep peace with the Town. Bob Crabtree, who was also on the Council at the time was under the impression that there was an application filled out and is unsure how it could have been misplaced. Jack Gross added a point of information that he was refunded his impact fee. Acting Mayor Jim Hager explained that the case was totally different as Mr. Gross' project was only an outdoor building. Attorney Ellen Davis shared the updated North Carolina law states that municipalities can collect impact fees, but it must be clearly specified what the money is used for. If the funds are generalized there must be a special act because municipalities are not authorized to collect fees that do not have a clearly identified purpose. Acting Mayor Jim Hager informed the Degarmo's that after receiving advice from the attorney the Council will make a decision.

**#2 Roof Replacement at Pump House:** The pump house is the small building at the top of the mountain next to the water tank, and the roof is in need of repair. Public Work Technician Eric Hayes received an estimate to replace the roof with metal tin that can be placed over the existing shingles. Councilman Bob Wehr and John Garland felt that the Town should get one more bid before proceeding. Councilman John Garland made a motion to receive an additional bid then proceed to fix the roof with the lowest bidder without going over \$1,000. Councilman Bob Wehr seconded. All others approved. The motion carried.

**#3 Update on Council Vacancy:** At this time four applications have been received. Acting Mayor Jim Hager recommended that a deadline be set for receiving applications. Hager suggested that one hour be set aside after the October Planning Meeting for interviews of the qualified applicants. Councilwoman Connie Gross asked that each Council member ask three questions making the interview more organized and formal. Councilman Bob Wehr felt that the interview process would be somewhat natural and not require such a specific guideline. Councilman Bob Wehr made a motion to end the application process September 30, 2016 and have an interview session following the Planning Meeting October 13 2016. Councilman John Garland seconded. All others approved. The motion carried.

**#4 Review of Specific Items for Rules for Local Government Boards:** After the adoption at the last Council Meeting of the Rules for Local Government Boards Acting Mayor Hager pointed out some specific points within the book that may need further review. In the rule book it is required that a public comment period be offered at some point during the meeting. At this time public comment is received at the beginning of the meeting. This can be changed if preferred to a different time. Lake Santeetlah has an adopted resolution that the Mayor only votes in

the case of a tie. Attorney Ellen explained that Fleming Bell does an excellent job but one item of concern is that by law you must be excused by a consensus of the board to abstain from voting. Voting is an obligation unless excused by consensus. Acting Mayor Jim Hager suggested that each area of concern would be referred to Attorney Davis for review. Councilman Bob Wehr asked that we defer this item until next month. The town council currently has a vacancy after the resignation of Bob Crabtree. Until this vacancy is filled a Mayor Pro-tem should be appointed. Councilwoman Connie Gross nominated herself. Councilman John Garland nominated Bob Wehr. Councilman John Garland and Acting Mayor Jim Hager voted to appoint Bob Wehr as the Mayor Pro-tem. Bob Wehr abstained from voting. Mayor Jim Hager voted to break a tie. Connie Gross was opposed. The motion passed two to one.

**#5 Donation for Graham County Schools Accountability Teams:** Town Administrator Kim Matheson shared information regarding the Graham County Schools Accountability team. David Matheson, Robbinsville High School principal, attended the Planning Meeting and provided an overview of what the accountability teams were and the purpose of such teams. The Town of Lake Santeetlah received a letter of request from Graham County Schools asking for a donation of support to this program. The teams are composed of athletes and the goal is to make better students and citizens of each individual. Each team receives points for community service, good grades, attending school regularly, and various good behaviors. The kids will be rewarded periodically throughout the year and in return hope that these behaviors becoming a lasting effect of the accountability program. Councilman Bob Wehr recommended the Town contribute \$500.00, and personal donations could be accepted as well. Councilwoman Connie Gross seconded. All others approved. The motion carried. Resident Steve Poole shared his concern with using "Town" money for public purposes. Poole feels that such donations should come privately. Councilwoman Connie Gross asked if she could donate \$100 to the Town for public purpose and bring the Town's donation to \$400.00. Acting Mayor Jim Hager explained that several residents had already donated privately and would continue to do so however those donations would be separate from the Town's contribution.

**#6 Budget Amendment:** The proposed budget amendment transfers the money from the general account to the water account to purchase the new water meters. The money transferred is a portion of the amount owed to water from general. This payoff was allocated in the budget and will cause the debt to decrease. Councilman John Garland made a motion to approve the amendment presented. Councilwoman Connie Gross seconded. All others approved. The motion carried.

**#7 Open Meetings Law:** Councilwoman Connie Gross shared North Carolina General Statute regarding Open Meetings law Chapter 143 Article 33(c). Referencing letter C and D an Official meeting is defined as a gathering together at any time or place. Councilwoman Gross struggled to proceed with wording and Attorney Davis assisted an official meeting is a meeting, assembly or gathering together at any time or place or the simultaneous communication of by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent of the public body. The question becomes, are all meetings of public bodies subject to the open meetings law. Attorney Davis affirms the answer is, no. It only becomes an official meeting when a majority meets in order to conduct the following: conduct a hearing, participate in deliberation, voting on or taking action on public business. Councilwoman Connie Gross explained what meetings she is referring to question this law. Gross stated that she had walked into Town Hall to find two Council members along with the Town Administrator discussing Town business on more than one occasion. Councilwoman Gross referred to minutes from a meeting on February 16, 2016 that stated, when two or more members of a public body meet a special meeting must be called with forty eight hours noticed required. These minutes have been approved and the wording was deemed as a mistake that was looked over prior to approval. The minutes should have read, when more than two members gather. However, Attorney Ellen Davis pointed out that the law will always precede minutes. Resident Roger Carlton asked for clarification on the specific meetings she may have been claiming illegal. Councilwoman Gross explained that she had come into Town Hall on three occasions to find two council members along with Town Administrator or Town Clerk meeting together. Gross

shared that she had a door shut in her face when she questioned if there was a meeting going on and was asked to leave. Councilwoman Gross feels ignored and questions why the issues being addressed cannot include the entire Council. Bob Crabtree, who recently resigned as Mayor, explained that there were two occasions where he met with Councilman Bob Wehr, and Acting Mayor Jim Hager to discuss and share history and knowledge of the Town that the two may not be aware of. Crabtree has been involved with the Town for many years and hoped to leave behind some history that would be helpful to those still serving. Resident Jack Gross was invited to join the meeting and was able to share personal knowledge as well. There was no Town business discussed during these meetings according to Crabtree. Councilwoman Gross questioned why she was not asked to be present, and was informed that with three board members that the meeting would have in fact been official and two members seemed adequate to receive the information. Resident Jack Gross asked if two members of the board, a lawyer and administrator would be considered an official meeting. Attorney Davis confirmed that no meeting is official without a majority of the board. Councilwoman Connie Gross stressed that despite the meetings being right or wrong she still felt that the actions were wrong and asked that Town Administrator Kim Matheson read a letter into the record further explaining her feelings. This letter had not been reviewed by the Council nor administration prior to the meeting. Town Administrator Kim Matheson read the letter distributed by Gross, which I have attached to these minutes for reference. Councilman Bob Wehr explained that those that were not familiar with Gross' complaints could review a letter he had composed that compelled a time line of events which involved Councilwoman Gross. Gross stated that the notes she received on the July 7, 2016 meeting were not the same as the letter presented by Mr. Wehr. Councilman Wehr acknowledged that the two referenced the same things. Councilwoman Gross stressed that she felt the two were speaking for the Council as a whole on such occasions. Wehr acknowledged that his letter would be available for those interested to review. Councilwoman Gross asked if there may be a period of Public Comment for the audience concerning this matter. Acting Mayor Jim Hager responded by asking the Council if there were any further comments. Councilman John Garland shared that he did not feel left out when not asked to be involved in the meetings discussed. It would be difficult to run a Town without the board discussing issues throughout the month and not only at Official Meetings. Garland thanked the Council members that spent the time dealing with business. It would not be time efficient for each member to be included in every aspect of issues according to Garland.

**#8 Resolution of Censure:** Councilman Bob Wehr made a motion to pass the Resolution of censure for Councilwoman Connie Gross for her ongoing inappropriate behaviors. The behaviors have been well documented. Councilwoman Connie Gross asked for discussion before a second. Councilman John Garland seconded. Councilwoman Connie Gross asked for an explanation of state laws that she is not following. Councilwoman Gross stated that the oath of office she took following the election had been followed strictly. Gross asked for evidence to be produced to prove she has been noncompliant. Councilman Bob Wehr explained that the meeting held in which Gross refers to as the "Bad Connie" meeting was an attempt to point out inappropriate actions and seek improvement moving forward. According to Wehr the requests had been ignored and reminded Gross that she was warned of being censured if there was no improvement. Wehr explained that most of the actions were verbal and behavioral making it difficult to produce written evidence. Councilman John Garland shared that he had been on the board longer than any current member. During his time of service he had never contacted County or Government officials, the attorney or any representative without the consensus of the board. Councilwoman explained that all her actions noted on the "bad Connie" list she had documentation, notes, and tapes to prove they were pre-approved. Gross shared that her intentions when contacting these officials was simply fact finding. Mrs. Gross once again asked for facts proving noncompliance. Acting Mayor Jim Hager made a motion to excuse Connie from voting on the Resolution of Censure. Councilman Bob Wehr seconded. Councilman John Garland was in favor, Councilwoman Connie Gross opposed. The motion passed three to one. Town Clerk Emily Hooper read the Resolution of Censure (which is attached to the minutes for reference). Acting Mayor Jim Hager made a motion to approve the Resolution of Censure. Councilman Bob Wehr seconded. John Garland was in favor. Councilwoman Connie Gross was unable to vote. The motion passed three to one. Councilwoman Gross asked what the censure meant to her as a Councilmember. Acting Mayor Hager informed Gross that it would simply be on the record that

she was censured but would not change her ability to serve. Hager stated that he hoped she would take this and use it as an incentive. Councilman John Garland asked the board to “take a step back,” set aside their differences and move forward. Stop the threats of lawsuits and work on unification.

#### **Discussion Items**

**#1 Tax Report 2016:** \$32,725.11 been collected in property taxes since July 1, 2016. \$157,882.36 is the remaining total to be collected.

**#2 Petition for Audio Meetings on Town Website:** Resident Jack Gross composed a petition for the audio recordings of all Town Meetings be placed on the Town Website. Mr. Gross had twenty two signatures of those who are in favor of having the capability of hearing the meetings. Resident Dick Eyestone explained that we should research the staff time, public interest, and space on the website that will be taken up before proceeding. Jeanie Schilf explained that this would allow her to be “a part” of the meetings when they are unable to attend and not receive information second hand. Stephanie Danforth asked if the audio could be transported to a CD and mailed if she submitted postage fees. Councilman Bob Wehr suggested that the recordings be posted and maintained on a private website or Facebook page maintained by Gross. Acting Mayor Jim Hager asked that we put a notice on the website to seek interest from more than those who signed the petition. This will be further researched and a decision will be made accordingly.

#### **Announcements:**

Acting Mayor Jim Hager announced that there would be a TPOA dinner at Santeetlah Fire Hall October 1, 2016 at 6:00PM. A Planning Meeting October 13, 2016 at 10:00AM and a Council Meeting October 18, 2016 at 10:00AM.

With no further business at this time Councilwoman Connie Gross made a motion to adjourn the meeting. John Garland seconded, all others agreed. The motion carried. Acting Mayor Jim Hager adjourned the meeting at 12:13PM.

#### **Meeting Adjourned**

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Jim Hager, Acting Mayor

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Emily Hooper, Town Clerk