



**LUCAMA BOARD OF COMMISSIONERS
REGULAR MEETING
MONDAY, SEPTEMBER 3, 2024
LUCAMA TOWN HALL
BOARD ROOM**

MINUTES

1. Call to Order

Mayor, Matthew Creech, (hereinafter “Mayor Creech”) called to order the regular meeting of the Town of Lucama Board of Commissioners (hereinafter “Board”) at 6 pm on September 3, 2024.

2. Roll Call

Mayor Creech conducted roll call – by use of sign-in. The following were present:

Commissioner, Dennis Ford (hereinafter “Comm. Ford”)
Commissioner, David Johnson (hereinafter “Comm. D. Johnson”)
Commissioner, Jeff Johnson (hereinafter “Comm. J. Johnson”)
Commissioner, Kim Joyner (hereinafter “Comm. Joyner”)
Commissioner, Jody Teague (hereinafter “Comm. Teague”)
Interim Town Administrator, Ralph Clark (hereinafter “Admin. Clark”)
Town Clerk, Dena Owens (hereinafter “Clerk Owens”)
Utility Billing Clerk, Ashleigh Hooks (hereinafter “Clerk Hooks”)
Town Attorney, Gabe DuSablou (hereinafter “Attorney DuSablou”)

3. Moment of Silence

Those in attendance observed a moment of silence.

4. Approval of Agenda

Mayor Creech asked for a motion to approve the agenda.

MOTION: Comm. Ford made motion to approve the agenda; seconded by Comm. Joyner. Motion passed by unanimous vote.

5. Approval of Minutes of Last Meetings

Mayor Creech gave the Board an opportunity to review the proposed minutes and financial report from the August 5th regular meeting.

Clerk Owens made mention of a change to the adjournment portion of the minutes, stating that it should read, "Mayor Pro Tem Johnson adjourned the meeting at approximately 7:55 pm, August 5, 2024, upon motion of the Board."

MOTION: Comm. J. Johnson made motion to approve the August 5, 2024, minutes with the change mentioned by Clerk Owens, and the financial report; seconded by Comm. Joyner. Motion passed by unanimous vote.

6. Welcome of Guests

There were no guests in attendance.

7. Public Comments

Richie Ballance of 6235 Little Rock Church Road was at the meeting to address a possible group home coming to the Swift Creek neighborhood. Mr. Ballance mentioned that a previous Board member / employee of the Town mentioned to him that there had been a previous encounter such as what is being dealt with a couple of years ago on Blalock Road near Gary and Susan Wright's house, which was stopped. He questioned if the Board knew of such information. The Board stated that they were not familiar with what was mentioned.

Mr. Ballance mentioned that the renter, Ms. Lynette Wortham, is bringing in furniture. There are currently 11 beds in the house. He understands that they can't stop anyone from moving in the house because there is a lease. He asked Attorney DuSablou what could be done when she begins moving people in. Attorney DuSablou mentioned that his representation is to the Town and does not want to extend too much advice to the citizens perse. He stated that in terms of the ordinance and what the use is, it does have to comply with the Town's zoning ordinance. There must be a certificate of Zoning Occupancy to use a piece of property. To his knowledge the mentioned has not occurred. If the property is to be used for a particular purpose, it will have to be approved by the Town to do so. If it begins to be used for a purpose that has not been approved the Town could seek enforcement up to potentially court involvement. Mr. Ballance questioned that there is nothing to be done until she begins to move someone into the house? Attorney DuSablou stated that it would have to be to a point where there was good evidence that it is being used for an improper purpose.

Comm. Ford asked if there were any other questions at the time regarding the subject. He stated that he knows that the Town has done what is within the law to be done. He stated that it is obvious that it is a legal position that the Town must

be sure to follow. Because no wrong has been done yet, the Town has done all that can be at the time.

Mayor Creech stated that the Board does consider the issue as serious and is currently looking at the most appropriate means with how to deal with the mentioned.

Cheryl Raper, of 308 Blalock Road, addressed the Board with her concern of the circle (Williams Street) off Rouse Street, where activity had been taking place at night. She doesn't know the extend of the activity. She stated that deputies were called. She also said that it is very dark at night at this location. She questioned whether the Town would consider placing a streetlight in the area.

8. Old Business

Admin. Clark stated that the Board had before them two Pole Attachment Agreements, Brightspeed and Spectrum. He addressed the Brightspeed Agreement first. Attorney DuSablou has reviewed the agreements and the two of them have had discussions. Admin. Clark stated that there are a few things where Attorney DuSablou had made changes. On the top of page four he suggests removing the Handy Whitman index. Admin. Clark does suggest leaving the five years. On page six, Attorney DuSablou added a statement, "Prior to engaging in such work, Owner shall provide Licensee and estimate of the costs thereof for Licensee's approval." Admin. Clark agrees with the addition. On page 13, Admin. Clark agrees with the changes.

Admin. Clark requests that the Board adopt the agreement so that once the pole inventory is completed, the Town will be able to begin billing for the usage of the poles. The billing rate is \$11.00, being the rate that was suggested by Brightspeed.

Attorney DuSablou mentioned that in terms of the Brightspeed Agreement, the term, suggesting that it be five years, he wanted to be sure that it was consistent. In Article 17, it specifies that the traditional term is five years with one year renewal. The part he struck out was to be consistent, five-year term five-year renewal. Mr. Clark concurred, after the initial five years, the renewal will be one year. He stated that since he had made changes to the agreement, they must be accepted by Brightspeed.

MOTION: Comm. Teague made motion to adopt the agreement, subject to the administrative changes; seconded by Comm. Joyner. Motion passed by unanimous vote.

The second agreement is with Spectrum. On page three, Attorney DuSablou marked out "The Licensee is subject to annual rental rates calculated in accordance with FCC (cable pole attachment rate formula)." Admin. Clark suggests leaving the wording as it. When modifying to FERC accounting, Federal Energy Regulatory Commission, they have their own accounting system. The Town can modify to pull the numbers out to match FERC's. It means to change the rates of things such as tree-trimming that can be charged to Spectrum or Brightspeed, as part of the agreements. If another inventory is needed in five years, they pay a portion of their part of it. It is important to have something standard that is common everywhere, something to reference to.

An additional recommendation of change is for having poles work-ready. Admin. Clark sees no need to make a change in the agreement. It is to have poles ready for them; the Town makes ready for them. Attorney DuSablou states that the contract specifies that when an attachee wants to attach to a pole, there must be an evaluation to determine if the pole can support the attachment. To accommodate the attachment, it is requested that the pole be Make Ready. The section sets out a time in which the Town would have to have the poles Make Ready. If it is ten or fewer poles, it specifies that the Town has 30 days. For 11 to 30 poles, it specifies 45 days. For more than 30 poles it is to make all reasonable efforts to complete construction as expeditiously as possible. Because of the Town's limited staff, that the Town could commit to perform all work as reasonably expeditiously possible but not be held to a specific set number of days to perform the work.

Attorney DuSablou felt that the annual attachment fee shall be \$11 to keep the two agreements consistent. Admin. Clark explained that the rate was negotiated for the \$6.61. This amount is consistent with other cable tv rates, and with what Mr. Willoughby and Clark expected the rate to be.

Attorney DuSablou told that Board that there is a significant body of law between pole owners and attaching parties for the owner to calculate the pole attachment. There is an industry standard with respect to the FCC pole attachment rate formula. It is mandated that investor-owned utilities charge that fee that is calculated based on pole costs and cost of depreciation, and accounting numbers that are pulled from a formula that is required to be submitted to FERC. In the State the disputes about pole attachment rates have included, municipalities are not legally mandated to use the FERC method to calculate pole attachment rates. One of the arguments advanced by municipalities is that they don't have the accounting figures and so they must figure out what the correct inputs are, which can be a bit of a chore. He feels that in any contract, two parties can agree on a number and there is nothing in the statute that says it must be calculated in a particular way. However, if the Town says that they will charge \$15 for each

attachment and the company says that amount must be justified, then such must be justified. If the Town can agree on \$7 or whatever cost, that is what the pole attachment rate will be. Attorney DuSablou's suggestion is that the contract, since it already specifies a pole attachment rate, for the term of the agreement, and upon the expiration of the agreement that the Town renegotiates. The renegotiation may even include the FERC calculation and decide at that point to use the formula, but not be contractually bound to use the formula. Nothing in the law says the formula must be used. He recommends that it be left out. He did point out that it could cost the Town over the next five years if the Town agrees to set \$6.61, leaving out potential annual increases if the pole cost went up. It could be offset by nudging the number upward, with the simplicity of not having to go through the exercise of calculating an annual pole attachment rate every year.

Admin. Clark argues a little differently because the reason that the FERC formula is in the agreement is due to governing Boards being greedy and began charging a large amount and it became a national fight over pole attachments. The governing Boards stated that they were going to charge \$17 and thought it could be justified. The courts came back and stated to use the FERC formula. He feels when the dynamics are looked at of the governing Boards and management, understanding that they have more resources than the Town, he sees with the amount of money being so small to start with, that it isn't worth having to bring in Attorney DuSablou to fight to get extra money because the parties can't agree. He feels the FERC formula is the preferred way to limit future actions.

Attorney DuSablou reiterated that there is greater simplicity at having set rates versus someone having to calculate that renewal rate every year using the FCC formula. If justifying on simplicity and saving costs, a rate should be set and that is what the rate will be without having to do a formula.

Admin. Clark mentioned that if a \$6.61 rate is approved, the Town is better off than previously because here to for there has been no receipts from pole attachments. He is trying to get an agreement adopted so the Town can begin to receive revenue from the attachments.

MOTION: Comm. Ford made a motion to accept the agreement with the deletion that Attorney DuSablou suggested but approving the \$6.61, with not adjusting the five years; seconded by Comm. Teague. Motion passed by unanimous vote.

9. New Items of Business

Clerk Owens presented the contract from Nunn, Brashear, and Uzzell for FY ending 6/30/2023. The cost to audit is \$15,525, with an additional cost of \$56,175 for writing the financial statements. This brings the total to \$20,700.

MOTION: Comm. Joyner made motion to accept the contract to audit the Town's June 30, 2023, books; seconded by Comm. D. Johnson. Motion passed by unanimous vote.

Admin. Clark presented a request from a Board member to the Public Safety Committee to purchase a radar sign to monitor and record speed on the Town's streets. It has been reviewed and recommended that the Town purchase two TC-600 Radar signs. The cost for each unit is \$4,333 plus any applicable tax. Shipping is included in the quote. Comm. J. Johnson and Admin. Clark have had discussions with the vendor and are comfortable that the devices will achieve the desired results in traffic control.

MOTION: Comm. Teague made motion to purchase two TC-600 Radar signs at a cost of \$4,333 each; seconded by Comm. Joyner. Motion passed by unanimous vote.

Admin. Clark stated that the current grant for the Sewer System Asset Inventory Assessment is underway and that the project was approved by the Board through a resolution that included the Capital Project Budget Ordinance by reference. Again, minutes do not indicate that an official budget was included. To keep records clear, Admin. Clark suggested that the Board adopt the 2024-2025 Project Budget Ordinance for the Sanitary Sewer System AIA.

MOTION: Comm. Joyner made motion to approve the 2024-2025 Project Budget Ordinance for the Sanitary Sewer System AIA; seconded by Comm. Teague. Motion passed by unanimous vote.

Likewise, Admin. Clark stated that the current grant for the Water System Asset Inventory Assessment (AIA) is currently underway. The project was approved by the Board through a resolution that included the Capital Project Budget Ordinance by reference. Minutes do not indicate that an official budget is included. To keep records clear, Admin. Clark suggested that the Board adopt the 2024-2025 Project Budget Ordinance for the Water System AIA.

MOTION: Comm. D. Johnson made motion to approve the 2024-2025 Project Budget Ordinance for the Water System AIA; seconded by Comm. Teague. Motion passed by unanimous vote.

10. Town Administrator's Report

Electric System Upgrade - Admin. Clark stated that the crews are currently working on the electric system lines. It was estimated that the crew be completed in 90 days.

Pole Inventory - The pole inventory is nearing completion.

Sewer Line Cleaning - The sewer line cleaning and videoing is underway. Admin. Clark stated that he is aware of a small issue, but the contractor is trying to keep a handle it, and it is moving along nicely.

Deputy's Cars - The old sheriff's cars sitting by the building, the Town does not currently own them. The Town is waiting for receipt of the titles. Comm. Joyner questioned whether the County still insurances the vehicles since the titles had had not been received by the Town. Admin. Clark is unaware but will check into the concern. The current determination is what needs to be done to the vehicles to make them sellable. The center console is out of both vehicles with wires hanging. The Sheriff's office stated that the cars came with no console. The cost for after-market consoles is about a couple of hundred dollars. Trying to ascertain the best method of selling the vehicles is being studied at the present time. Depending on the market where someone is looking, both cars can possibly be sold for \$10,000 - \$12,000.

Town Office Roof Repair - Admin. Clark reminded the Board of the roof repair that he mentioned during the previous month's meeting, deciphering where to get the funds to pay for the work.

Bank Building – Admin. Clark met with a carpet contractor to see what the cost would be to remove the old carpeting and estimating the cost to replace. He doesn't have any intention of replacing the carpeting. At this point, he feels that if the Town operations is moved across the street, that it be focused on and the other piece of the property where it is nearly a shell with walls. He did find that the previous administrator had some contact with an architect. He hasn't contacted the architect to see how far the plans went. He will be contacting her. He wants to be sure what has been done, so that he doesn't redo or pay to redo.

Vacation – Admin. Clark stated that he will be on vacation the last full week of September.

11. Adjournment

Mayor Creech adjourned the meeting at approximately 7:05 pm, September 3, 2024, upon motion of Board.

MOTION: Motion was made to adjourn by Comm. Ford; seconded by Comm. D. Johnson. Motion passed by unanimous vote.

Respectfully Submitted: Dena Owens, Town Clerk