



TOWN OF ELIZABETH

PATRICK G. DAVIDSON, TOWN ADMINISTRATOR

TO: Honorable Mayor, Mayor Pro Tem, and Members of the Board of Trustees
FROM: Patrick Davidson, Town Administrator
DATED: September 24, 2024
SUBJECT: Response to Citizen Concerns – General Questions

In working with the Public, Town Staff receive dozens of questions and comments per week which are not only of interest to the citizen but might also be useful for the community as a whole. Consequently, in early July 2024, Mayor Payne asked that answers to broader questions not only be addressed directly to the resident, but also incorporated into semi-regular responses for the public. Below are the most recent questions/concerns and the Staff's responses.

RESPONSE TO CITIZEN CONCERNS

CONSTITUTION WEEK. Constitution Week is done to commemorate the history and importance of the US Constitution. The tradition began in 1956 and has continued thereafter. For 2024, Constitution Week is September 17th through September 23rd. In keeping with this, there has been several comments over the past few weeks – both in public meetings and on social media – involving the US Constitution.

Eminent Domain.

The first addresses the concerns about the role of Eminent Domain which is a power that may be undertaken by the government to acquire private property for public use. Specifically, the 5th Amendment to the US Constitution provides “nor shall private property be taken for public use, without just compensation”. State and Federal law, combined with court decisions, clearly provide for the ability for government to acquire property through Eminent Domain, subject to due process proceedings and just compensation.

Arrest Warrant.

The second issue arises from the issuance of a warrant regarding numerous Town ordinance violations. Since May 2024, the EPD had worked to secure compliance with the Town Code. This included attempted phone calls, letters, and other attempts at interaction. No corrective action was taken, nor were appropriate responses received from the resident. As a result, the Municipal Court issued a warrant for the resident.

The 4th Amendment to the US Constitution authorizes the use of warrants for the arrest of individuals for certain misdemeanors. In many jurisdictions, warrants are required for misdemeanors which occur outside of the view of a law enforcement officer. In order to secure a warrant, the following must exist: (1) a showing of probable cause that a person is committing or has committed a crime; (2) the matter is presented to a neutral judge and probable cause is supported before that judge; (3) the Court provides specific information as to the person to be seized [or the location and things to be searched and or seized]. In this instance, the Municipal Court made an independent review of the matters and issued a warrant accordingly.



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EXECUTIVE SESSIONS. The Colorado Revised Statutes allows governmental entities to discuss certain topics in a closed executive session. [See, C.R.S. §24-6-402.] Additionally, while executive sessions allow for discussions in private, the action of the Board of Trustees must be in an open meeting. For example, the discussions of the purchase and sale of land may be had in an executive session, the final decision and the approval of a contract must be done in an open meeting of the Board.

- A. “To hold a conference with the Town’s attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402 (4)(b).”
- B. “To consider personnel matters, pursuant to C.R.S. § 24-6-402 (4) (f).”
- C. “To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402 (4)(e).”
- D. “To consider documents protected from disclosure by the Colorado Open Records Act, pursuant to C.R.S. § 24-6-402(g).”
- E. “To consider the purchase, acquisition, lease, transfer or sale of real, personal or other property, pursuant to C.R.S. § 24-6-402 (4)(a).”
- F. “To consider matters required to be kept confidential by federal or state law or rules and regulations, pursuant to C.R.S. § 24-6-402 (c), with the applicable law/rule/regulations being _____.”
- G. “To discuss specialized details of security arrangements or investigations, pursuant to C.R.S. 24-6-402(d).”

For purposes of this memorandum, it should be noted that the topic of discussion for the executive session are stated specifically within the agenda, providing as much information as can reasonably be stated. A Board member then moves to go into executive session, with a second from another Board member. A majority must vote in order to go into such a session. No decision may be made in the executive session, or issue resolved within the confidential setting.



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PATRICK G. DAVIDSON, TOWN ADMINISTRATOR

TO: Honorable Mayor, Mayor Pro Tem, and Members of the Board of Trustees
FROM: Patrick Davidson, Town Administrator
DATED: September 13, 2024
SUBJECT: Land Acquisition 601 S. Pine Ridge Road, Elizabeth

In working with the Public, Town Staff receive dozens of questions and comments per week which are not only of interest to the citizen but might also be useful for the community as a whole. Below are the most recent questions/concerns and the Staff's responses.

RESPONSE TO CITIZEN CONCERNS

PURCHASE OF PROPERTY LOCATED AT 601 SOUTH PINE RIDGE STREET.

The Town of Elizabeth has previously sought a more central location in which to establish a Town Hall facility which would also include sufficient space for the Elizabeth Police Department. The Town had previously sought to collaborate with the owners of the Elizabeth 44 property to create such a centralized location. The attempts proved unsuccessful.

After lengthy discussions with the Board on several occasions, a general consensus was reached by the Board that certain conditions should exist for the establishment of a new Town Hall and a Community and Senior Center. The following considerations were deemed important if not required for future sites. These included: (1) general location within the geographic center of the Town; (2) access to Elizabeth Street for access to CR136, CR13, and HWY 86; (3) economical access to the Town's water and wastewater systems; (4) elevation for telecommunications, emergency services access; and (5) ease of access with possible controlled intersections. In addition, the minimum lot size was to be at least five (5) acres in size.

Very few tracts of land within the overall boundaries of the Town of Elizabeth meet these criteria. The property located at 601 South Pine Ridge is actually a total of four (4) smaller lots, two located within the County, and two located within the Town. Combined, they meet the conditions deemed important by the Board of Trustees.

With the recent disconnection of Elizabeth West, the prices for both developed and undeveloped land have increased. The basic driving factor in these price changes are due to the scarcity of land arising from voter initiative. In making a price determination, the Town consulted outside real estate experts, as well as the Town's own data in determining the valuation of the property.

These are the general findings:

- The Elizabeth 44/Abraham Lots are estimated to sell in the range of \$250,000/acre. At that rate, the purchase price would be \$1,250,000.



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- The property located at 889 South Elizabeth Street had a purchase price of \$500,000/acre based on a 6/1/2023 *Special Warranty Deed*. In this instance, the total purchase price of five (5) acres would be \$2,500,000.¹
- The general price for property located in Crossroads is approximately \$325,000/acre. At that price per acre, the total for five acres would be \$1,625,000.
- The property located on Garland Street, in the flood zone located next to Running Creek, is currently listed at \$193,000/acre. Assuming the lot was large enough for the Town's needs, the anticipated purchase price would be \$965,000.
- The lots at Wild Pointe Marketplace (immediately outside the Town of Elizabeth) are averaging \$679,504/acre, for a theoretical purchase price of \$3,397,523 for five acres.

Averaging the per acre prices established above, ***the average cost per acre is \$389,500 per acre.*** The Town has acquired the property located at 601 South Pine Ridge Street at the price of ***\$163,291 per acre***, for a final purchase price of \$895,000.

Until future plans are finalized, the property will remain as a single-family residence from which the Town will receive monthly rental payments. Additionally, the existing shop and garage spaces will provide immediate relief for storage concerns existing at current Town facilities. Contrary to the comments made on social media, the Town is not responsible for any property taxes on these tracts, and until annexation of the County tracts, is not subject to the requirement of installation of Town water and wastewater services. Those services will be implemented upon full annexation and construction of future facilities. Additionally, to the extent adjudicated, the Town receives the water rights in the transaction to add to its holdings.

Finally, as is the case in real estate transactions, the Buyer's commission (the payment to the Town's representative/realtor) comes from the proceeds from the sale of the property and is not paid by the Town. Any inference that the Town directly paid the realtor for this transaction is incorrect.

¹ The close proximity of this property to the property located at 601 South Pine Ridge Street (with access off Elizabeth Street) is noteworthy to the analysis.



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PATRICK G. DAVIDSON, TOWN ADMINISTRATOR

TO: Honorable Mayor, Mayor Pro Tem, and Members of the Board of Trustees
FROM: Patrick Davidson, Town Administrator
DATED: September 24, 2024
SUBJECT: State/Federal Grants, Processes, Applications for the Town of Elizabeth

BACKGROUND

Considerable discussion has occurred on social media regarding the Town's receipts of grants during the 2023 and 2024 fiscal years. The Town has successfully been awarded \$2M in grants over this timeframe, which has allowed projects to proceed while also cutting the overall expenditures from the Town's General Fund and Capital Funds. Because both substantial and material misstatements have been made with regard to grant and grant funding, this memo is generated to assist in clarifying some of the points of confusion.

ANALYSIS

GENERAL INFORMATION ON GRANTS. Grant funding is a means by which federal, state and local governments distribute funds for projects. Nearly all forms of grant funding are competitive, meaning that applicants must demonstrate a need for specific funding, the goals to be accomplished through the funding, and who may benefit from such funding. The second reason these are considered "competitive" is that there are more requests for funding than available funds, and consequently, those projects meeting the funding objectives receive the grant funds.

An example of a competitive grant for the Town of Elizabeth is the grant for the Main Street Streetscape Project. In this instance, the Federal Government in conjunction with the State of Colorado, made funds available for street improvements for small communities. While the funds were provided through CDOT, the funds could only be used for specific projects, such as Main Street improvements. The funds could not be used at other locations within Town. With the Streetscape grant, the Town was required to match the funding in order to receive the grant.

In those rare instances where grant funding is not competitive, the funding is provided for a sole and specific purpose as required by the funding entity. Most grants in this category involve lesser financial obligations from the funded entity. An example of this type of grant is the USDOJ – BVP Program.¹ This program provides 50% grant reimbursement for the costs of body armor vests purchased for law enforcement.

Another example of a specialty grant that is not competitive, is the High Visibility Enforcement (HVE) Grant through the Colorado Department of Transportation. This specific grant reimburses the Town of Elizabeth for overtime compensation arising from traffic enforcement. Specifically, the funds are used to address specific traffic safety issues such as speeding and impaired driving.

¹ Patrick Leahey Bulletproof Vest Partnership, Office of Justice Programs, U.S. Department of Justice.



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IS THIS REALLY “FREE” MONEY? NOTHING IS EVER FREE. There are conditions on the use of funds, detailed, specifically in each grant. Because grant funds are either designed to assist in benefiting society, or stopping a specific behavior of society, they do come with conditions.

As a partial list of conditions for the Streetscape Grant, the Town is required to put the project out to competitive bid; comply with the “Buy American Act”; provide regular updates to the State; ensure compliance with State and Federal labor laws; complete the project within the required timelines or seek an extension of the deadline; account for the expenditure of funds; include the funding in the Town’s annual audit; and retain records. There is nothing special or specific required within the Streetscape Grant that the Town does not already do in its normal course of business.

In the case of the BVP program, the most important requirement of the grant is to purchase body armor that meets the National Institute of Justice (NIJ) standards and demonstrate that the armor is worn while on duty; and finally maintain a written policy for both the use and the replacement of the purchased armor. Because the Town already maintains these written policies, and because there is little point in purchasing protective equipment that is not certified, compliance is easy to maintain.

WHAT IS THE BASIS IN SEEKING GRANT FUNDS? In general, a community in either Colorado or in the United States is going to receive these grant funds, so why not the Town of Elizabeth? The residents of the Town pay taxes to the State and Federal Government. Knowing that the funds are going to be distributed, and that the funds are simply not going to be given back directly to the taxpayers, this seems the best way to proceed.

IF GETTING GRANTS IS THIS EASY, WHY AREN’T OTHERS DOING IT? Obtaining funding is not easy! There are at least 89,000 local governments in the United States; 19,502 incorporated towns and cities in the United States; and 399 towns and cities in Colorado. All are competing for grants on a regular basis.

The Town of Elizabeth is unique. First, as the largest incorporated community in Elbert County, the Town stands out for small grant applications. Second, the Town’s Staff have been successful in grant applications in other locales and have brought that experience to the Town. Third, the Town has not made extensive use of grants in the past, making current and future applications “ripe” for funding. Lastly, Town Staff is able to balance the costs/benefits to grants to ensure that the 40-60 hours spent per grant application translates to funds in excess of the time spent combined with the likelihood of success in the application. While Elizabeth may be eligible to apply for hundreds of grants per year, Town Staff focus on those with the highest chance of success.



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WITH ALL THESE GRANT FUNDS, THE TOWN SHOULD BE AUDITED! We agree. The Town has an annual audit performed each year by an independent auditor. The audit is completed each Spring and is reported to the Board of Trustees and is based on General Accepted Accounting Principles (GAAP) and the processes set forth by the Governmental Accounting Standards Board (GASB). As part of the audit, the Auditor has access to all the Town's financial records, as well as access to the Town's Finance Manager, Attorney and Administrator. The Audit is also reported directly to the State of Colorado for review.

WHO OVERSEES GRANT APPLICATIONS? Through Resolution 22R27 the Board of Trustees established Grant Management Policies for the Town of Elizabeth. [The Resolution is attached.] In short, if the grant application involves the expenditure of Town funds, the Board must approve the grant application and then must approve the expenditure of funds. If the grant application requires no financial match, the Administrator may make the application subject to notice and oversight by the Board of Trustees.

In reality, every grant application will require a letter of support from the Mayor or the Board of Trustees. In addition, many grant applications require a specific Resolution authorizing the application for the grant. Finally, whether the application requires a financial match from the Town or not, every grant application requires final approval and acceptance by the Board of Trustees.

RESOLUTION 22R37

A RESOLUTION ADOPTING COMPREHENSIVE FINANCIAL POLICIES

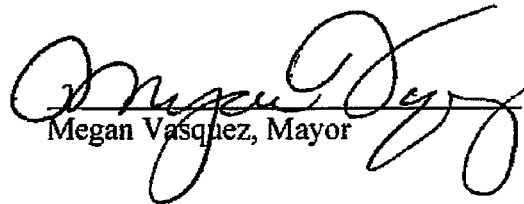
NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ELIZABETH, COLORADO AS FOLLOWS:

Section 1. The Board of Trustees hereby adopts the Comprehensive Financial Policies attached hereto as **Exhibit A**, consisting of the following policies:


- A. Travel and Training Policy;
- B. Presentment of Payment with Insufficient Funds Policy;
- C. Disposal of Surplus Property Policy;
- D. Grant Management Policy; and
- E. Credit Card Policy.

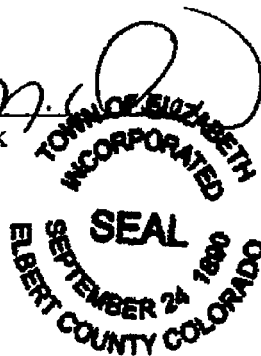
Section 2. All Resolutions inconsistent with the attached policies are hereby repealed, including Resolution No. 14R07, Resolution No.09R08, Resolution No. 11R12 and Resolution No. 10R23.

PASSED, APPROVED, and ADOPTED this 23 day of August, 2022, by the Board of Trustees of the Town of Elizabeth, Colorado, on first and final reading, by a vote of 6 for and 0 against.


Megan Vasquez, Mayor

ATTEST


Michelle M. Oeser, Town Clerk



GRANT MANAGEMENT POLICIES FOR THE TOWN OF ELIZABETH, COLORADO

The purpose of this Policy is to develop, implement, and maintain meaningful oversight and coordination for the Town, thereby increasing grant related revenue, limiting the Town's exposure to grant related liability, and improving the efficiency and impact of programs and services funded through grants.

AUTHORITY TO SEEK GRANT FUNDING

1. **Administrator Approval of Grant Applications.** The Town Administrator may seek grant funding, approve grant applications, and acceptance grant funding if the grant does not require matching funds, or if the grant requires matching funds, but those funds are already part of the existing budget. Timely notice shall be provided to the Board of Trustees of any grant sought under this provision, as well as regular and timely updates of any progress on the same.
2. **Board of Trustees Approval of Grant Applications.** The Town Administrator must seek approval of the grant application and the acceptance of the grant through the Board of Trustees if matching funds are required for the grant, and those funds are not budgeted. In addition, approval must be obtained by the Board of Trustees if the award of the grant could create additional future expenditures such as maintenance and upkeep of grant funded improvements, the creation of new positions, or similar long-term expenditures for the Town. If there is any doubt as to the long-term consequences of any such grant, the Town Administrator shall defer to the Board for final approval on a grant application.

CONFLICT OF INTEREST

No employee or official of the Town shall have any interest, financial or otherwise, direct, or indirect, or have any arrangement concerning prospective employment that will, or may be reasonably expected to, bias the design, conduct, or reporting of a grant-funded project on which he or she is working.

It shall be the responsibility of the Department Head or grant management for each grant-funded project to ensure that in the use of project funds, officials or employees of the Town and nongovernmental recipients or sub-recipients avoid any action that might result or create the appearance of:

- Using his or her official position for private gain
- Giving preferential treatment to any person or organization
- Losing complete independence or impartiality
- Making an official decision outside official channels
- Adversely affecting public confidence in the grant funded program and the Town in general

STATEMENT OF NON-DISCRIMINATION BY THE TOWN OF ELIZABETH

The Town of Elizabeth does not and shall not discriminate on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities and operations. These activities include but are not limited to, hiring

and firing of staff, selection of volunteers and vendors, and provisions of services. The Town is committed to providing an inclusive and welcoming environment for all members of our staff, citizens, residents, volunteers, subcontractors, vendors, and clients.

The Town of Elizabeth is an equal opportunity employer. The Town does not discriminate and will take affirmative action measures to ensure against discrimination in employment, recruitment, advertisement for employment, compensation, termination, upgrading, promotions, and other conditions of employment against any employee or job applicant on the basis of race, color, gender, national origin, age, religion, creed, disability, veteran status, sexual orientation, gender identity or gender expression.

ADMINISTERING GRANTS AND RESPONSIBILITIES

Grants may vary substantially in terms of notice, progress reporting, completion, auditing, and similar conditions. It is important for each grant applicant and Department Head to know the terms and conditions for the grant. It is also vitally important to work with the Financial Officer to ensure financial compliance with the grant application and the awarded grant. As such, the following are the requirements for the Town's grant administration, subject to the specific terms and conditions of the grant:

1. The Financial Officer shall:

- Be responsible for the general oversight of the Town's grant activities.
- Timely receive and deposit all grant related funds.
- Ensure no funds are dispersed until the grant agreement has been signed and executed.
- Timely process all requests for the expenditure of grant related funds.
- Execute, as may be required, all documents such as grant applications and grant status reports that seek the signature of "Financial Officer", "Finance Department" or related terms.
- Track the financial requirements of the grant and include amounts in the next budget cycle after the grant is approved.
- Fulfill the financial record keeping requirements of the grant.
- Coordinate and work with Department Heads and grant applicants for the completion of the grant requirements.

2. The Department Head or Grant Applicant shall:

- Prepare and submit grant proposals.
- Develop grant implementation plans and manage grant programs.
- Upon awarding of a grant, provide a memorandum and associated documents for the Town Clerk for inclusion in the Board Packet.
- Submit any required management reports to the granting agency.
- Meet all deadlines set in the grant, or if deadlines cannot be met, apply for extensions.
- Notify the Finance Department when the project is complete, or when any submissions need to be made for distribution of grant funds.
- Provide any other data required by the Grant.

- Notify the Finance Department of any changes in the grant status.

REVIEW BY THE TOWN ATTORNEY

Grant agreements are different from many other contracts in that there is little, or no negotiation involved. In most circumstances, the Town will either sign the agreement or decline the award. Despite the Town's lack of bargaining power in this regard, it is nevertheless prudent to conduct a legal review of grant agreements to ensure that all the terms of the agreement are legally enforceable. The Town Attorney shall review the terms and conditions of the award as the initial step, as requested by the Town Administrator, Department Head or grant applicant.

RECORD RETENTION AND MANAGEMENT

All awarded grants shall be maintained in a separate file format and shall include all grant related documents including, but not limited to, grant submittal, research, award, financial reports, and correspondence with the granting agency. These are the minimum documents required to be maintained, with the granting agency's preferred file structure taking precedence.

The Town shall maintain grant records for at least three (3) years after full completion and acceptance of the grant project. This file retention shall be subject to additional time limits as may be established by the granting agency or pursuant to state and federal law.

SUPPORT FOR GRANTS NOT SOUGHT BY THE TOWN OF ELIZABETH

At times, other organizations such as government boards and agencies, non-profit organizations, and philanthropic organizations may seek letters of support for their own grants and grant funding. Because often these groups may have a specific legal, political, or ideological aspect to their grant application and funding, any such request must require approval by the Board of Trustees upon the advice of the Town Attorney.

INCLUSION AS SUPPORTING DOCUMENT IN GRANT APPLICATIONS

These Grant Management Policies, and the enabling Resolution, may be provided as a supporting document to any grant application to identify the authority for action in seeking grant funding and demonstrating the Town's adherence to non-discrimination policies in both its operations and in seeking of grant funds.

In addition, the Mayor of the Town of Elizabeth, or in the Mayor's absence, the Mayor Pro Tem, is authorized to provide any required signatures, or letters of support, to further the goals and policies set forth in these Grant Management Policies and the associated Resolution.