



TOWN BOARD AGENDA

REGULAR MEETING

(All items listed for discussion and possible action)

Hybrid Meeting

[Meetings | Town of Foxfield \(colorado.gov\)](https://www.colorado.gov/townoffoxfield/meetings)

South Metro Fire Protection District Station #42
7320 South Parker Road

Thursday, February 15, 2024
6:30 p.m.

Call to Order

1. Roll Call of Board Members
2. Audience Participation Period (limit 4 minutes per speaker)
3. Consent Agenda
 - a. Approval of Minutes – February 1, 2024
 - b. Financials January 2024
4. For Possible Action
 - a. Digital Accessibility Assessment Proposal
5. For Discussion
 - a. Right of Way Maintenance
6. Reports
 - a. Members of Town Board
 - b. Staff

7. Future Agenda Items

- a. Tunnel and sidewalk repairs
- b. MHFD follow-up
- c. Culvert Clean-up
- d. Wards Discussion
- e. Master Plan
- f. Land Use Code
- g. Gate Maintenance Vendor

8. Adjournment



MINUTES

BOARD OF TRUSTEES MEETING

February 1, 2024

Call to order:

The virtual meeting was called to order at 6:30 p.m. via Microsoft Teams.

1. Roll Call:

The following Trustees were present via Microsoft Teams: Trustee Farreau.

The following Trustees were present in person: Mayor Pro Tem Cockrell, and , Trustee Schultz, and Trustee Thompson.

Mayor Jones, Trustee Goddard and Trustee Herold were absent.

A quorum was present.

2. Audience Participation

None

3. Agenda Amendment

a. Mayor Pro Tem Cockrell requested that the study session be rescheduled to allow for greater attendance.

4. Consent Agenda

a. Approval of Minutes – January 4, 2023

Trustee Thompson moved to approve the Consent Agenda, with a second from Trustee Farreau. The motion passed by unanimous roll call vote.

4. Public Hearing

a. Supplemental Appropriation for 2023

Town Administrator Proctor summarized the updated appropriation, which was due to increased building permit expenses and culvert assessment expenditures from the ARP funds. Hearing was closed as no comments were received.

b. Amending the 2024 Budget

Town Administrator Proctor noted that the only change was due to the decrease in final assessed property values. Hearing was closed as no comments were received.

5. For Discussion

a. Election Polling Place Requirements

Town Clerk Schmitz noted that Colorado State Statute requires that Towns with wards must have a voting precinct and voting location for each ward. After having a discussion with legal counsel there are two options. The first option is to have the Election Official write a procedure detailing how the Town handles the polling places, and why the Town is unable to comply with the State Statute. The second option is to eliminate the wards.

6. For Possible Action

- a. Resolution 2024-03 Authorizing a Supplemental Appropriation for Fiscal Year 2023
Mayor Pro Cockrell moved to approve Resolution 2024-03 Authorizing a Supplemental Appropriation for Fiscal Year 2023, with a second from Trustee Schultz. The motion passed by unanimous roll call vote.

- b. Resolution 2024-04 Amending the 2024 Budget
Mayor Pro Tem Cockrell moved to approve Resolution 2024-04 Amending the 2024 Budget, with a second from Trustee Schultz. The motion passed by unanimous roll call vote.

- c. Approval of the SEH 2024 Contract Addendum Proposal
It was agreed that an RFP should be done for 2025 services.

Mayor Pro Tem moved to approve the SEH 2024 Contract Addendum Proposal, with a second from Trustee Farreau. The motion passed by a three to one vote, with Trustee Thompson dissenting.

- d. Trustee Schultz moved to approve Resolution 2024-05 Cancelling the April 2024 Election, with a second from Trustee Farreau. The motion passed by unanimous roll call vote.

Reports

- a. Mayor Pro Tem Cockrell reported that there was a budget proposal presentation, at the recent DRCOG meeting, which included information on AUD proposals. Currently, CML is opposed to the proposal as it is written. EPA reduction grants were also discussed. The Easter Trail study IGA hasn't been finalized yet.

- b. Members of the Town Board
 - i. Trustee Thompson reported that the advisory committee for par 150 study has information is available to the public. She also noted that Republic Service did increase the 2024 rates.

 - ii. Trustee Farreau noted that Republic Services does offer annual billing, which can save money on administrative fees. She also reported that following the recent gate meeting, the Fremont gate was turned back on. The Richfield gate is not working correctly and needs to be fixed.

 - iii. Trustee Schultz inquired about the status of the gate vendor.

c. Staff

i. Ms. Proctor reported on the recent gate vendor meeting. She noted that the contract with All Metro Door expired at the end of 2023, and that she has reached out to Wizard Works based on a recommendation from staff and Frank Lawrence, who has done extensive reviews of gate performance. Ms. Proctor also advised that staff will be working on the 2023 audit starting on March 4th. Lastly, Master Plan and LUC final draft updates have been received and staff will bring this forward for potential adoption prior to April.

ii. Mrs. Schmitz reported that the Staff met with representatives from SIPA and Allyant to discuss Digital Accessibility Auditing. Allyant will provide a proposal for services.

7. Future Agenda Items

- a. Tunnel and sidewalk repairs
- b. MHFD follow-up
- c. Digital Accessibility Audit
- d. Speed mitigation
- e. Culvert follow-up
- f. Gate Vendor Proposal
- g. RFP engineering

8. Adjournment

Mayor Pro Tem Cockrell adjourned the meeting at 7:27 p.m.

Kathleen Schmitz, Town Clerk

Lisa Jones, Town Mayor

**Treasurer's Report
January 2024**

	Credit	Debit	Balance
Transactions reported on a settled basis			
1st Bank Checkbook Beginning Balance			\$ 49,415.64
<u>Deposits</u>			
Colo Interac - gate tags	40.00		
Colo Interac - building permits	2,405.38		
Colo Interac- Use tax	2,188.13		
Arapahoe County Open Space Tax	203.84		
Colo Trust Transfer	165,000.00		
Business license	175.00		
Core - franchise fee	5,311.18		
Special Event permit	400.00		
Total Deposits	\$175,723.53		
<u>Disbursements</u>			
Storquest		77.00	
Caselle - monthly support		330.00	
Colorado Mediation & Resolution Service-Municipal Judge		250.00	
Microsoft Online email hosting		47.73	
Microsoft Phone		17.76	
First Bank--activity fee		2.00	
CORE- Lewiston way lights		33.67	
CORE- Gate electricity fremont		28.86	
CORE- Gate electricity- Richfield		28.44	
CORE- Irrigation		21.57	
SEH		11,615.75	
HPWC, PC - legal services		380.00	
Terracare Assoc - public works		8,946.06	
Kathleen Schmitz--postage reimbursement		160.50	
ACWWA		76.49	
CORE - 6806 S Parker Road lights		102.46	
SafeBuilt - building, CE, P&Z		3,131.73	
CIRSA		4,940.12	
CML-membership		893.00	
J & S Contractor Supply		76.87	
Colorado Unemployment premium		50.00	
TextMyGov		3,000.00	
The Villager Legals		36.56	
McDermott Printing		109.50	
Metro Mayors Caucus		573.70	
Arapahoe County Use Tax		5,270.13	
Office Depot-envelops		73.48	
ACSO		136,904.06	
EFTPS - payroll tax deposit		2,935.95	
Schmitz, Kathleen		3,569.95	
Briar, Jeff		300.14	
Proctor, Karen		5,592.76	
Total Disbursements		\$ 189,576.24	
1st Bank Checkbook Ending Balance			\$ 35,562.93

**Treasurer's Report
January 2024**

	Credit	Debit	Balance
ColoTrust General Fund Beginning Balance			\$ 1,515,159.18
Deposits			
Cigarette Tax	59.68		
Sales Tax	49,265.62		
Arapahoe County	816.40		
Payments due from ARP culverts	9,392.25		
HUTF	2,856.01		
Open Space transfer	243.23		
ARP transfer for culvert assessment	4,610.50		
Public Service	1,528.04		
Road and Bridge shareback	243.41		
Interest Income	7,099.47		
Total Deposits	\$ 76,114.61		
Disbursements			
Transfer to CTF		3,054.33	
Transfer to checking		165,000.00	
Total Disbursements		\$ 168,054.33	
ColoTrust General Fund Ending Balance			\$ 1,423,219.46
	Credit	Debit	Balance
ColoTrust CTF Fund Beginning Balance (Lottery Money)			\$ 19,896.73
Deposits			
CTF Distributon (transferred From GF)	3,054.33		
Interest Income	104.51		
Total CTF Deposits	\$ 3,158.84		
Disbursements			
Total CTF Disbursements		\$ -	
ColoTrust CTF Fund Ending Balance			\$ 23,055.57

**Treasurer's Report
January 2024**

	Credit	Debit	Balance
ColoTrust Open Space - Beginning Balance			\$ 246,580.27
Deposits			
Interest Income	1,162.18		
Road and Bridge	243.41		
Total Deposits	1,405.59		
Disbursements			
Transfer to General Fund		486.64	
Total Disbursements		\$ 486.64	
ColoTrust Open Space Ending Balance			\$ 247,499.22
	Credit	Debit	Balance
ColoTrust Amer Rescue Plan - Beginning Balance			\$ 110,956.78
Deposits			
Interest Income	477.72		
Total Deposits	\$ 477.72		
Disbursements			
Transfer to General Fund		14,002.75	
Total Disbursements		\$ 14,002.75	
ColoTrust Amer Rescue Plan Ending Balance			\$ 97,431.75

TOWN OF FOXFIELD SALES TAX REVENUE

2021 TOTAL \$577,648

<u>2022</u>	Nov Tax (Jan)	Dec Tax (Feb)	Jan Tax (Mar)	Feb Tax (Apr)	Mar Tax (May)	Apr Tax (Jun)	May Tax (Jul)	Jun Tax (Aug)	Jul Tax (Sep)	Aug Tax (Oct)	Sep Tax (Nov)	Oct Tax (Dec)	TOTALS
Colorado	35,322	25,179	18,488	23,894	27,061	22,707	21,535	18,366	21,373	17,317	17,534	16,310	265,086
Remote	12,097	7,822	8,154	11,229	17,329	18,912	18,539	9,342	11,280	10,096	9,500	14,780	149,080
FVC	23,767	18,843	15,448	18,191	10,044	10,627	8,637	17,200	22,278	18,142	17,887	18,659	199,722
	71,185	51,843	42,091	53,314	54,434	52,245	48,711	44,908	54,931	45,555	44,922	49,749	\$ 613,887.62

2022 TOTAL \$613,888

<u>2023</u>	Nov Tax (Jan)	Dec Tax (Feb)	Jan Tax (Mar)	Feb Tax (Apr)	Mar Tax (May)	Apr Tax (Jun)	May Tax (Jul)	Jun Tax (Aug)	Jul Tax (Sep)	Aug Tax (Oct)	Sep Tax (Nov)	Oct Tax (Dec)	TOTALS
Colorado	18,032	17,726	15,741	21,479	17,504	19,576	20,521	24,972	16,358	22,882	23,518	20,217	238,526
Remote	11,157	10,836	9,389	10,254	9,137	9,814	10,219	9,738	10,138	13,692	37,948	12,476	154,799
FVC	21,366	17,696	15,181	12,957	13,369	14,164	13,845	17,690	23,338	18,077	17,088	16,572	201,344
	50,555	46,258	40,310	44,691	40,010	43,553	44,585	52,401	49,834	54,651	78,555	49,266	\$ 594,668.90

2023 TOTAL \$594,669

<u>2024</u>	Nov Tax (Jan)	Dec Tax (Feb)	Jan Tax (Mar)	Feb Tax (Apr)	Mar Tax (May)	Apr Tax (Jun)	May Tax (Jul)	Jun Tax (Aug)	Jul Tax (Sep)	Aug Tax (Oct)	Sep Tax (Nov)	Oct Tax (Dec)	TOTALS
Colorado	28,432												28,432
Remote	11,302												11,302
FVC	15,739												15,739
	55,473	0	0	0	0	0	0	0	0	0	0	0	\$ 55,472.95

2024 TOTAL \$55,473



MEMORANDUM

TO: Mayor Jones and Members of the Board

FROM: Kathleen Schmitz, Town Clerk

DATE: February 15, 2024

RE: Digital Accessibility Assessment and Premium Hub Proposal

DISCUSSION:

As previously discussed, House Bill 21-1110 ("HB 1110") and Senate Bill 23-244 ("SB 244") require state and local governments to comply with the accessibility rules starting July 1, 2024. Staff met with representatives from Allyant and SIPA to understand their process, time commitments and requirements, and will be ready to engage with the provider should the Board choose to move forward. Attached is a proposal from A360 Enterprises, LLC (Allyant), to provide a digital accessibility assessment, training, and potential remediation.

The cost of the proposed work was not included in the 2024 budget, but the amounts appropriated to the general fund expenses and/or the ARP expenses may cover the work. The staff is seeking guidance on how to allocate the expense.

SUGGESTED MOTION:

"I move to approve the Digital Accessibility Assessment and Premium Hub Proposal."

ATTACHMENT:

Exhibit A – Digital Accessibility Assessment and Premium Hub Proposal



Digital Accessibility

Assessment & Premium HUB

Proposal

Colorado Statewide Internet Portal Authority
(SIPA): Town of Foxfield

Provided by A360 Enterprises, LLC (dba Allyant)

February 2nd, 2024

Overview

A360 Enterprises, LLC (Allyant) is providing this proposal to Town of Foxfield (“Client”) in order to help you assess, develop/remediate and report on digital accessibility in an effort to conform to WCAG 2.1, Level AA guidelines and mitigate risk. This effort will be led by experienced, live accessibility auditors and consultants. This document outlines the steps required to create a full and successful experience for all.

Allyant is in a unique position to help the Client through this process by providing:

1. **Experienced Accessibility Engineers**, both sighted and native screen reader auditors to fully assess websites, mobile apps, IoT products, kiosks & other digital platforms. This approach is far superior to automated tools which only test for a fraction of the WCAG success criteria, return many false positives and are limited in their ability to accurately test for usability and/or compliance.
2. **Detailed Reporting** via the [Allyant HUB](#), a fully accessible customer portal, to help all members of your team manage your digital accessibility project(s), get training and track progress.
3. The **Allyant HUB Audit & QA Reports** provide accessibility issues, screenshots, severity, an estimated level of effort to fix and most importantly: practical, developer-focused remediation solutions, built-in Help Desk & links to a Knowledge Base for additional learning per issue.
4. A **Customer Success Manager (CSM)** is assigned to every Allyant Client, bringing senior-level staff to help plan, facilitate and consult throughout the remediation effort, keeping the process as smooth and efficient as possible so that your goals are achieved. We also offer a higher level of Design and Development Support, which is leveraged by those organizations tackling the most difficult equitable access problems within complex digital products.
5. Further, **Allyant’s Legal Support Group** pioneered the service of helping clients navigate through any legal notifications like demand letters, and complaints, and filed lawsuits to test claims and support them through defense strategy

Process

The Allyant Roadmap is a proven process distilled from thousands of accessibility projects over years of industry-leading services provided to clients across all business verticals around the world. This approach will lead your organization to become digitally accessible, as quickly as possible, while working with your specific needs, development processes and available resources.

Accessibility Assessment

Allyant will conduct a manual disabled-user assessment of the digital properties outlined in the [assessment scope](#). The accessibility assessment satisfies requirements for screen readers, visual, hearing and cognitive impairment, and keyboard-only users using standards established in [WCAG 2.1 Level AA](#).

The Audit Reports delivered via the Allyant HUB provide your team the information necessary to remediate any accessibility concerns, and serves as the governance tool for tracking your progress of this business compliance requirement. Allyant will provide the following assistance and deliverables with the audit:

- **Assessment Issue Report**
 - URL, mobile view or component audited
 - Specific non-compliant elements on each & the WCAG guideline(s) it violates
 - User audience affected by the issue (e.g., screen reader, keyboard-only, hearing impaired, color contrast)
 - A detailed recommendation to remediate each issue
 - Priority level for fixing the issue
 - Link to the related Allyant HUB Knowledge Base articles

- Screenshots where appropriate
- **Assessment Summary Report**
 - A narrative document summarizing the audit and highlighting common issues that were found, steps of the recommended remediation plan and an estimated level of effort
 - Global issues and suggestions that would improve ongoing maintenance, Search Engine Optimization, overall usability and more

Allyant HUB Access

The HUB is your personalized customer portal and is provided to authorized users within your organization and partner organizations. In the Allyant HUB your related staff will have access to the project results outlined here, Knowledge Base, Video Training Series and Help Desk staff, (if Ongoing Support hours are purchased).

- **Allyant HUB Toolkit:**
 - The HUB Toolkit is a Chrome Developer Extension downloaded from the Chrome Web Store helping identify and learn about common accessibility issues on your pages.
 - The extension can run on any page your browser can access including local environments, behind firewalls, logins and different page contexts.
 - While there is no substitute for a live user audit, automated testing can identify some of the most common accessibility issues. In conjunction with access to Allyant's accessibility engineers, these automated assessments can help you identify and remediate some issues more quickly.
 - The toolkit extension includes
 - **Accessibility Tools:**
 - **Image Descriptions:** View all images on the page in one place grouped by images with descriptions, those marked as decorative and those missing descriptions.
 - **Heading Levels:** View the current page heading level structure to more easily identify where levels may have been skipped or are otherwise incorrect.
 - **ARIA Usage:** ARIA is used to help describe elements on the page to a screen reader. Determining where these attributes are used in your HTML is helpful when identifying problems.
 - **Components:** Quickly identify components used on the page including third-party such as Google Maps or Yotpo, along with other items such as the slick-slider carousel.
 - **External Links:** View a list of links on your page that point to external resources.
- **Allyant HUB Premium Automated Scanning:**
 - Website Scanning
 - Site scanning via crawls or existing page snapshots of publicly available web pages
 - Screenshots of pages scanned
 - Scheduling of scans (Weekly, monthly, quarterly, annually)
 - Email PDF of scanning results for scheduled scans
 - All scans are saved within HUB for historical reference and trending
 - Client-specific scan rule sets to match your business needs
 - Scans can be saved from the HUB Toolkit Chrome developer extension into HUB for future reference.
 - Site Info
 - Ability to see popular 3rd Party Components found across the site during crawls
 - Broken Links
 - External Links

- **Knowledge Base:**
 - Direct links from the Issues found during Audit or QA to this self-paced learning section
 - Checklists, Accessibility Statement Helpers and other accessibility documents
 - Detailed articles are continually added and updated as accessibility guidelines change
- **Help Desk:**
 - Client may submit general inquiries at the project level or directly linked to specific audit results
 - Comments are threaded to ensure clear communication and allow for collaboration
 - Manned by senior-level screen-reader and sighted Accessibility Engineers
- **Technical Video Training:** Access to Allyant's video training series of technical accessibility design and development topics and best practices
 - Overview look at the laws and emerging trends pertaining to digital accessibility, crucial topics for development organizations and the business. This includes an introduction to WCAG 2.1 Level AA
 - Introduction to accessibility, Design guidelines and Developer know-how to create accessibility within new builds along with best practices for content managers and code examples to leverage during your Remediation effort
 - Additional resources to continue to expand your knowledge of digital accessibility are added often and every client gets immediate access to all video training content

Proposed Timeline

Allyant will begin as soon as possible after SOW execution or PO start date. The proposed project dates are below. Dates are subject to change based on delivery of executed documents, payment, Client environment readiness, required credentials and other related factors.

Our experience has shown your team's engagement is a major factor in finalizing the Proposed Timeline and for the overall success of the project. In addition, Allyant has identified Key Success Factors to help ensure your success. Allyant will review these with your team during the Project Kick-Off Meeting and throughout the project.

Process Steps		Project Start Date	Project End Date
Client Environment Prepared & Project Kick-Off Meeting		1-2 weeks following SOW execution or PO Start Date	
Accessibility Assessment	townoffoxfield.colorado.gov	To be determined following project kickoff	
HUB Toolkit Subscription		Upon SOW execution or PO Start Date	1 year from Start Date

Pricing

Service	Fee	
Accessibility Assessment <ul style="list-style-type: none"> Manual, disabled-user Accessibility Assessment Reports detailing the findings & recommended fixes Accessibility Statement template Audit & QA Allyant training completion certificate, if desired 	Assessment townoffoxfield.colorado.gov	\$7,270
Annual HUB Toolkit Subscription Includes: <ul style="list-style-type: none"> Usage of Allyant "Reviewed By" badge Issue reporting & workflow management system Compliance Governance of Project Milestones Allyant Video Training Series Allyant Knowledge Base Access Scanning Tool via Chrome Extension Schedule scans/crawls 1,000 pages scanned and saved annually across up to 1 projects/domains Unlimited scanning via Allyant Toolkit Chrome Extension 5 Help Desk Tickets per year 10 Active Users 	HUB Subscription	\$1,500/year
Project Type	Fixed Fee	
Estimated Fees for Services	\$8,770 (billed in advance)	
Town of Foxfield Total Cost	\$8,770	

Assessment Scope

The following views are based on a preliminary review of the domain(s) outlined in this Proposal. The Proposal is meant to be a collaborative effort between Client and Allyant to ensure the UX and unique functionality are accurately represented.

Town of Foxfield	URL
Homepage	https://townoffoxfield.colorado.gov/
Government	https://townoffoxfield.colorado.gov/government
Elections	https://townoffoxfield.colorado.gov/elections
Town Staff	https://townoffoxfield.colorado.gov/our-staff
Financial Information	https://townoffoxfield.colorado.gov/financial-reports
Communication	https://townoffoxfield.colorado.gov/communication
Residents	https://townoffoxfield.colorado.gov/residents-0
Public Safety	https://townoffoxfield.colorado.gov/public-safety
General Permit Information	https://townoffoxfield.colorado.gov/general-permit-information
How Do I Report A Code Violation	https://townoffoxfield.colorado.gov/code-enforcement-violation-report
How Do I Order Trash Service	https://townoffoxfield.colorado.gov/utilities/trash
Events	https://townoffoxfield.colorado.gov/events
Meetings	https://townoffoxfield.colorado.gov/meetings
Accessibility Statement	https://townoffoxfield.colorado.gov/about-foxfield/ada-compliance

* By executing a SOW or issuing a PO, Client agrees that the scope outlined above is accurate, has been reviewed and is approved by Client.

Assumptions

- Client's users of the Allyant HUB must be directly related to the project scope in this Agreement. Logins are based on email addresses and cannot be shared between Client staff.
- Help Desk tickets must be a single accessibility question that can typically be answered (including any replies) in one hour or less by trained Allyant Accessibility Engineers.
- Allyant is not a law firm; does not provide legal advice. Allyant encourages Client to work with experienced legal counsel to understand and apply the law to Client's situation.
- Allyant's reports and recommendations reflect Allyant's experience and understanding in the field of accessible technology. Client is responsible for the operation of its own business, and Client is always free to adopt Allyant's recommendations, in whole, in part, or not at all, as Client sees fit in its legal and business judgment.
- Total hours of work performed by Allyant during the assessment is not to exceed 44 hours
- Allyant will provide Client with a monthly report detailing Ongoing Support hours consumed
- Client may use hours for any digital accessibility review work under contract with Allyant
- Early termination by Client will result in Allyant issuing a final invoice for any unbilled hours for services provided up until date of termination
- No refunds are granted for Annual Allyant HUB Subscriptions

All of the following are out-of-scope services:

- All services not explicitly defined in this proposal
- Travel, lodging and per diem costs affiliated with this project
- Any out-of-pocket costs associated with the effort (e.g. printing, binding, displays, etc.)
- Review or Remediation of any digital materials such as emails, pdf's, statements or marketing content not listed in Pricing.

In the event that either Party requires changes to the scope originally identified in this Proposal, a mutually agreed upon Change Order must be executed. Work on a Change Order shall not begin until that time.

Allyant's reports and recommendations reflect Allyant's experience and understanding in the field of accessible technology. Client is responsible for the operation of its own business, and Client is always free to adopt Allyant's recommendations, in whole, in part, or not at all, as Client sees fit in its legal and business judgment.



MEMORANDUM

TO: Mayor Jones and Members of the Board

FROM: Karen Proctor, Town Administrator
Kathleen Schmitz, Town Clerk

DATE: February 15, 2024

RE: Right-of-Way Maintenance Policy

DISCUSSION:

Staff was recently contacted by a resident regarding large cottonwood trees that are in front of their property and in the town's right-of-way ("ROW") located at the intersection of Easter and Yampa. The limbs are brittle and fragile causing them to frequently break and fall onto their property as well as the street and ROW. The property owner is concerned one of the branches will fall and injure someone or damage property. They requested the Town to trim the trees and get rid of all the overgrowth.

This prompted a discussion with staff and Town Attorney Hoffman regarding responsibility, liability, and enforcement consistency for historic and past application of the Town Municipal Code relating to ROW maintenance.

Municipal Code Sec. 7-1-20(c) states:

(7) The existence, without limitation, of any of the following conditions:

c. Landscaping and vegetation.

2. Weeds, brush and other vegetation grown in a rank or unsightly fashion. In addition to an owner's property, adjoining rights-of-way along roadsides, including ditches and berms, **are to be maintained by each property owner**. No person, firm or corporation owning or occupying any property within the Town shall permit any grass or any vegetation whatsoever to grow or remain in the rights-of-way adjoining their property so as to exceed a height of twelve (12) inches.

The 12" height restriction for natural growth in ROW's was put in code when we required residents to maintain them and does not apply to the trees. The cottonwood trees along Easter have been there for years. They were likely planted before the property was developed and before we became a Town.

Attorney Hoffman advised the Town has *governmental immunity*, so liability is not a concern. He also stated that the Town has the right to delegate authority to the homeowner to maintain the ROW adjacent to their property, but suggested the Town needs to be consistent in how this is enforced. He also advised that if the Town wishes to treat tree maintenance and culvert maintenance differently it may do so but should be explicit in any policy differences and suggested that the Code should be updated to reflect any policy changes.

It has been the practice of Code Enforcement that if a tree on private property encroaches into the ROW to hold the property owner responsible for maintenance. Historical incidents of tree maintenance within the ROW are limited, however, staff did find some inconsistencies. In August of 2023, there was an instance in which a tree in the right-of-way had limbs overhanging Richfield St. The homeowner was asked to remove those limbs based on section 7-1-20. In February of 2020, there was an instance of a tree growing into the row (it's unclear if the tree was planted in the ROW), but the Town had the homeowner clean up the overhanging branches. In August of 2020, there was an instance where the Town had Terracare remove tree branches from the ROW.

At the suggestion of counsel, staff is seeking direction from the Board in order to create a policy and work with the legal team to address the code language. It is suggested that the Board decide on the following topics.

1. For any tree currently planted in the ROW should it be the responsibility of the property owner or the Town?
 - a. If the decision is that the Town will be responsible for tree maintenance that are in the ROW, should staff instruct Terracare to remove the 5 known trees in the ROW?
2. For clarity, it is also suggested that the Board be explicit in differentiating responsibilities.
 - a. Does the Board wish to keep responsibility for mowing the ROW?
 - b. Does the Board wish to delegate all other responsibilities to the property owner for ROW maintenance, including culvert maintenance?

