

Town of Pierce
Regular Board Meeting
July 14th, 2025
6:30 P.M.

The Board of Trustees of the Town of Pierce, County of Weld, State of Colorado, met in regular session at Pierce Town Hall 144 Main Street, Pierce Colorado at the hour of 6:30 P.M. Monday, July 14, 2025.

Mayor Cathy Ortiz called the meeting to order at 6:30 P.M. Based on the roll call, the following Trustees comprising a quorum attended:

Mayor Cathy Ortiz

Trustees

Geoffery Broughton- Absent

Glen Lester

Chris VanWhy

Julie Lukela

Larry VanWhy- Absent

Teresa Martinez

Others Present:

Kristina Duran, Town Clerk

Shantel Anderson, Admin Assistant

James Godbold, Town Attorney

1. Approval of Minutes from June 9, 2025 Special Meeting and June 9, 2025 Board Meeting:

Trustee Lukela stated that she did not get the agenda for the special meeting. Clerk Duran explained that the special meeting agenda was in the envelope with the regular board packet. Motion made by Trustee Lester to approve minutes. Second by Martinez. All "AYES", motion passed.

2. Approval of Agenda: Motion made by Trustee C. VanWhy to approve the agenda. Second by Martinez. All "AYES", motion passed.

3. Public Comment*: Dan Betts from Congresswoman Boeberts office came to introduce himself and let the Board know about the services and support their office can offer. The Board was also asked if they had decided about the school. It was explained that right now, purchasing the school isn't a good financial move by the Board, but if something comes up in the next couple of years before the school is demolished they will approach the school at that time.

4. Presentation of the 2024 Audit- Chad Chavies: Chad Chavies presented the 2024 Audit. It was a clean audit, and since staff have made pretty much all documents in PDF form, they are quicker and more efficient.

5. New Business License Ruby's Creations at 410 Sharpe- Ruby Ashby: Ruby briefly explained her business. She was able to register her business with the state and got her sales tax number. Motion made by C. VanWhy to approve business license application. Second by Lester. All "AYES", motion passed.

6. Police Contract Hours- Chief Germer & Ault Mayor Butch White: Chief Germer and Mayor White presented more information regarding the police hours. Their on-scene time varied from 13.5 hours a month to 103.5 hours a month. The board discussed the options provided. Motion made by Trustee C. VanWhy to rescind the termination notice and continue with the current contract. Second by Lukela. All "AYES", motion passed.

7. Events Process: This is a reminder for the Trustees to keep in mind everything that can go into an event. Does the Board want to reserve the park for all events, even the ones under 25 people? Does the Board want to have tables and chairs available? What does the Board want fees to be? Deadlines for events? This item will be added to the next agenda.

8. Adopt Resolution for Roberts Rules of Order: Motion made by Trustee C. VanWhy to adopt resolution for Roberts Rules of Order. Second by Martinez. All "AYES", motion passed.

9. Investigative Report Response to Complaint filed by Kristina Duran: Trustee Lukela read the response by Investigator Kristen Brown. (the full response is attached to these minutes) Mayor Ortiz wanted to let the Board and the citizens know that Clerk Duran is not the person who usually types the minutes and Duran was not the person who typed the April 2023 minutes referenced in the response. Duran was not even present at that meeting at all. Motion made by Trustee C. VanWhy to take the recommendation of the investigator and dismiss the complaint filed by Duran. Second by Lester. All "AYES", motion passed.

10. Fire Department Water Use and Potential Billing of Usage: The fire department has used a significant amount of water, which follows this pattern every year around this time. The Public Works Director Lester has already talked to the Fire Chief about the leak they had had several years ago on the sprinkler system but was told this was corrected. It still seems that the high usage is likely tied into their sprinklers, whether it is leaking only when running or if they are over watering. Motion made by C. VanWhy to have Director Lester talk to the fire department so they can hopefully narrow down the problem and add this the next month's agenda. Second by Lukela. All "AYES", motion passed.

11. Consider Donation to Regional Air Quality Council: Motion made by C. VanWhy to not donate at this time. Second Lukela. All "AYES", motion passed.

12. Consider Moving Trash Location Pick-up to Curbside for All Residents: Maverick has a hard time getting into alleys because of low lying lines. It also makes providing a trash service difficult to not have interruption of service because of the different pick up locations. There was some comment from the public regarding the wind blowing the trash everywhere, and the difficulty that some people may have trying to drag the dumpster to the street. Staff will post for citizens to send or drop off comments to Town Hall up until the next meeting, or come to the next regular Board meeting to give their input on the trash. This item will be added to the next agenda.

13. Consider Change to Town Code Prohibiting Recalled Officials From Running For Office For a Set Period of Time: The Town doesn't have anything in place that prevents someone who has been recalled from getting appointed or elected to the Town Board again. Board would like staff to do some research on how other Towns handle this. This item will be out on the next agenda.

14. Old Business: None.

15. Staff Reports:

(A). Mayor Report: There is a farmers and vendors market every Wednesday at Main Street Market parking lot from 4 P.M. to 7 P.M. It has been going really good.

(B). Public Works: Report provided.

(C). Planning Commission: No meeting last month.

(D). Town Attorney: Public Works employees had to clean up a property on the east side after the owner failed to do so after being sent several notices. He has threatened litigation, so does the Board still want staff to invoice him for the cleanup anyways? The invoice would be \$1800.00. The board discussed and motion made by Trustee C. VanWhy to invoice for the cleanup. Second by Lester. All "AYES", motion passed.

(E). Town Engineer: None.

(F). Town Clerk:

1.Request to pay bills: Motion made by Trustee Lester to pay the bills. Second by C. VanWhy. All "AYES", motion passed.

2. Comment Box: No comments in the comment boxes.

16. Department Reports:

(A). Water/Sewer-Trustee Lester: None.

(B). Streets & Drainage-Trustee L. VanWhy: Absent.

(C). Utilities & Energy- Trustee Lukela: None.

(D). Buildings- Trustee Broughton: Absent.

(E). Parks & Recreation- Trustee Martinez: The dog park will be going to planning then to the Board.

(F). Growth & Revenue- Trustee C. VanWhy: None.

17. Board Communications: Trustee Lukela would like the full investigative report included with the minutes.

Adjournment:

Kristina Duran, Town Clerk

(see attachment of Investigative Report)

TOWN OF PIERCE, WELD COUNTY, COLORADO

INVESTIGATIVE REPORT RE: CODE OF CONDUCT COMPLAINT

PROCEDURAL BACKGROUND

1. "CODE OF CONDUCT AND ETHICS"

In 2024 the Board of Trustees of the Town of Pierce enacted the "Code of Conduct and Ethics" applicable to the Board and all members of any of the Town's Commissions. Section 7 establishes the "Rules of Conduct." Paragraph J provides, in part:

J. Other conduct. It shall be a violation of this Code of Conduct for any Board or Commission member to engage in other conduct which threatens the public confidence in the integrity of the Town government, including but not limited to illegal conduct, conduct which puts self-interest before public interest, willful or persistent failure to perform his or her duties, engaging in any form of harassment or unlawful discrimination, or any other conduct involving dereliction of duties.

Upon receipt of a verified complaint, the Town Clerk shall forward the complaint to the Board of Trustees. Sec. 11.B. The complaint "must state in detail the facts of the alleged violation." Sec. 11, B. If the Board of Trustees finds a "reasonable basis to believe that a violation of the Ethics Code has been committed, or that an investigation of a possible violation is warranted," the Board shall appoint a special investigator to conduct an investigation into the

complaint. Sec. 11.D. The Special Investigator has authority to interview witnesses and request any relevant documents. The Board or Commission member who is the subject of the complaint shall have the opportunity to respond to the complaint in writing.

Upon completion of the investigation, the Special Investigator shall provide a written report to the Board of Trustees as to whether there is “probable cause” to believe that a violation of the Ethics Code occurred. Sec. 11, E.¹ If the Special Investigator finds that there is no probable cause to believe that a violation of the Ethics Code occurred, she may recommend dismissal of the complaint.

If the Board of Trustees finds that there is probable cause to believe a violation did occur, it shall schedule a hearing at which the Special Investigator shall present her findings to the Board. If the Board finds that there is no probable cause to believe a violation occurred, the Board shall dismiss the Complaint.

2. VERIFIED COMPLAINT

On April 8, 2025, Town Clerk, Kristina “Tina” Duran, filed an ethics complaint against Board Trustee Julie Lukela. The complaint alleges harassment based on a utility payment by check written to “Town of Pierce (Tina’s Town).” Duran cites C.R.S. 18-9-111, the criminal harassment statute, in support of her allegation that she is the victim of harassment under Section 7.J. of the Code of Conduct. Duran stated that she “does not appreciate the continued comments” made about her. “The snarky comments are made to intentionally bother me and to try to effect my ability to do my job.”

To provide context, Duran provided a list of alleged conduct of Lukela toward her (Duran) to show that she is “targeted” by Lukela.

¹ “Probable cause” is the reasonable belief, based on facts and circumstances, that a crime has been committed (or, in this case that an act of harassment under the Code of Conduct occurred), and that a specific person committed the crime (or act of harassment).

3. Summary of Duran's Allegations

In support of Duran's allegation that she was the subject of harassment by Lukela based on the note, "Tina's Town," written on check payment, Duran describes multiple incidents dating back to 2022. Duran alleges that these prior incidents support her claim that she has been targeted by Lukela.

a. No review/raise.

Duran stated that she has not received a performance evaluation/review or pay raise for over two years. In addition, Duran alleged:

- A salary survey conducted in late 2024 showed that the position of Town Clerk was paid a lower salary than in other comparable municipalities.

- On multiple occasions, Lukela voiced an opinion that Duran was over paid and should not receive a raise.

- Lukela regularly supported pay increases for public works employees (which Duran claims is unlawful discrimination since all public works employees are male and Town Hall employees are all female).

- Lukela has voiced an opinion that Duran was "incompetent and unqualified" for the position of Town Clerk.

- Lukela has stated that Duran is overpaid.

- In 2023 the Board of Trustees voted to not post employee salaries, while information regarding her salary was delivered to residents of the town.

b. Lukela's stated opinion about Duran and Town Hall operations.

Duran alleged that Lukela has repeatedly expressed a dislike for Duran and the staff at Town Hall. In addition, Duran stated that Lukela has openly expressed concern about Town Hall operations under the Town Clerk's office.

c. E-mail communication.

Duran alleged that Lukela and a former Trustee exchanged e-mails in which Town Hall staff was referred to as the “office bitches.”

d. Personal threat.

Duran referred to an alleged threat made by Lukela’s daughter in November 2023, that Duran should “watch her back.”

4. Investigation of Duran’s allegations.

Duran was asked to provide documents in support of her allegation that the “Tina’s Town” notation on Lukela’s check constituted harassment.

When asked during her interview, Duran reiterated that her complaint was solely related to the content of the check issued by Lukela (“Tina’s Town”). The additional allegations set forth in her complaint provide the background and, from her perspective, proof of Lukela’s ongoing harassment.

Minutes of Board meetings were reviewed, as well as recordings of several Board of Trustees meetings. Copies of e-mail communications were also reviewed.

Upon a thorough review of the minutes of meetings and recordings of meetings provided, it is clear that there is an elevated level of conflict among various members of the Board of Trustees, and between some members of town staff and several Trustees. Duran reported that Board meetings are frequently chaotic and hostile. That is evident in listening to several recordings of meetings. It appears that the hostility is not limited to Board members, but is also expressed by some members of the public who speak at meetings, and on occasion Duran

herself. [As an example, Duran’s statements on recordings of Board meeting on August 14, 2023, December 11, 2023, March 11, 2024, July 8, 2024.]

5. Lukela’s written response to complaint.

Julie Lukela submitted a written response to Duran’s complaint. While Lukela did not admit or deny writing “Tina’s Town” on the check she issued to pay her utilities, she did address several of Duran’s other allegations.

Lukela admitted that she is “not a Tina fan.” She explained that she got involved in local politics as a concerned citizen, having listened to complaints about operation of the town for years. As a member of the Board of Trustees, she believes that any opinion she has voiced about Duran’s qualifications, competency and/or salary, fall within her duties as a member of the Board.

In response to some of the specific allegations, Lukela either did not recall the specific events (some of which date back to September 2022), or she explained that her comments were taken out of context.

RELEVANT LAW

As noted above, Duran alleges that Lukela violated Sec. 7.J. of the “Code of Conduct and Ethics” in that Lukela engaged in harassment. “Harassment” is not specifically defined in the Code of Conduct.

In her complaint, Duran refers to C.R.S. 18-9-111, harassment, stating that a person can be criminally charged with harassment under the statute when the person intentionally bothers,

annoys or alarms “someone though repeated contact, obscene gestures, hitting, taunting or following in public.” Duran’s summary of the statutory harassment provisions is not accurate.

C.R.S. 18-9-111, “Harassment” provides that a person commits harassment if, with intent to harass, annoy, or alarm another person, s/he:

1. strikes, shoves, kicks, or otherwise touches another person or subjects him to physical contact;
2. in a public place directs obscene language or makes an obscene gesture to another person (obscene specifically defined in the statutory provisions);
3. follows a person in or about a public place;
4. harasses a person by telephone (cell phone, etc.);
5. makes repeated communications at inconvenient hours that invade the privacy of another and interfere with the use and enjoyment of another’s home;
6. repeatedly insults, taunts, challenges or makes communications in offensively coarse language in a manner likely to provoke a violent or disorderly response.

Any of the specific acts listed above do not constitute harassment unless the actor has the intent to harass, annoy, or alarm another person. Duran’s statement that a person can be criminally charged with harassment if the person intentionally bothers, annoys or alarms another person, is not correct.² In addition, even if an actor has the requisite intent, if he repeatedly insults, taunts, or challenges another person, only when such action is likely to provoke a violent or disorderly response does a violation of the law occur.

Even in light of the above, there is no evidence that the Board of Trustees intended that the criminal definition of harassment be applied to the Code of Conduct.

Duran directed the Special Investigator to Article IX, Pierce Employee Handbook. At Article IX, harassment is defined as “behavior which has the purpose or effect of creating an

² In fact, the term “bother” is not included in the statutory provision.

intimidating, hostile or offensive working environment, or has the purpose or effect of unreasonably interfering with an individual's work performance, or otherwise adversely affects an individual's employment opportunities." While this definition provides guidance in the analysis here, there is no evidence that the Board of Trustees intended such definition or discussion to specifically apply to any investigation related to alleged harassment as prohibited by the Code of Conduct.

Pierce Municipal Code 2-3-10, "Appointed officers," provides that the board of Trustees is to appoint (by a majority vote of all members) the Town Administrator, Town Attorney, Town Clerk and Municipal Judge. Town officers may only be removed for cause. PMC 2-3-40. The Town Clerk, along with all other town officers, report to and are supervised by the Board of Trustees.

FINDINGS

Duran's complaint is focused on the check issued by Lukela written to "Town of Pierce (Tina's Town)." However, Duran also listed several incidents since 2022 to support her claim that Lukela has continuously harassed her. Those incidents are addressed below.

Duran stated that she has not had an employee review for several years and that she has not received an increase in pay in that time. She further noted that there is a great deal of discussion about her rate of pay. According to Duran, this supports her claim that Lukela has harassed her in violation of the Code of Conduct.

While the record shows that Lukela has commented on Duran's pay (and the pay of other employees), Lukela herself (whether as Mayor or Trustee) is not alone responsible for establishing salaries for town employees, or conducting employee reviews. That is a function of the Board of Trustees. As Mayor or Trustee, Lukela is qualified, and expected, to have a voice when it comes to the salary of town employees. The same is true as to Lukela's opinion about the qualifications and competence of all employees.

Any statements of her opinions of Duran's salary, qualifications and competency as Town Clerk relate to Lukela's role as Trustee (and formerly as Mayor). Lukela has at times been

critical of Duran. The evidence related to the nature of Lukela's criticism does not support a finding of harassment.

Duran referred to an anonymous letter that was circulated to town residents that includes a reference to the salary of the Town Clerk. Clearly the letter is a campaign letter circulated in support of specific candidates named therein. Whether Lukela authored and circulated the letter is not relevant. The salary of every town employee is public record.

The position of Town Clerk as a town officer is a public position. Though not elected, the person who serves in that position will undoubtedly be the subject of criticism. Hearing critical opinions from Trustees and town residents, may be difficult and cause the subject of the criticism great emotion. The Town Clerk, like other town officers, must appropriately handle hearing difficult opinions. When such opinions are of the nature made by Trustee Lukela (related to Duran's pay, qualifications and abilities), such opinions do not constitute harassment.

The e-mail referencing "the office bitches" was sent to Lukela (as Mayor in June 2023) from e-mail account "Pierce Water & Sewer." Lukela did not initiate the e-mail and did not make the statement. There is no evidence that Lukela made that statement in any of her communications.

According to Duran, the threat that she "watch her back" was made by Lukela's daughter. Lukela did not make the statement. Conduct and statements of others cannot be inferred to Lukela.

Upon thorough review of Duran's complaint, the supporting documentation provided by Duran, statements made by Duran in two separate interviews as part of this investigation, and the written response provided by Lukela, there is insufficient evidence to find that there is probable cause to believe that Lukela committed harassment of Duran by writing "Tina's Town" on the check issued for payment of Lukela's utilities. The conclusion is the same whether applying the statutory definition of harassment, or the definition set forth in the Employee Handbook.

Moreover, although the individual incidents cited by Duran to support her claim are not the fundamental basis of her complaint, none of these incidents substantiate a finding of probable cause that Lukela engaged in harassment of Duran.

It is clear that there is a great deal of discord and hostility between several employees and Trustees. Duran engages in the discord and hostility at times, including in Board meetings. Duran's responses to Lukela in various e-mail communications is sharp and confrontational.

While members of the community and other Trustees may voice dislike and disapproval of Mayor/Trustee Lukela, no such evidence supports Duran's allegations. Nor does the fact that Lukela was recalled as Mayor.

As Town Clerk, Duran is responsible for drafting the Minutes of Board of Trustee meetings. Minutes of various Board meetings (since 2022) were reviewed as part of this investigation, all of which were provided by Duran to support her claims. Of significant concern to the Special Investigator is that it is evident that Duran drafts the minutes in such a way to support her claims of harassment and general grievances of hers. It is critical that the minutes of Board meetings accurately reflect the actual statements at the meeting. The Town Clerk has no authority to embellish minutes.

As an example, in the minutes of the April 10, 2023 Board meeting, Duran added information personally known to her that were not specifically stated in the meeting (the minutes were compared to the actual recording of the April 10, 2023 Board meeting). At paragraph (F)2, "Considering giving Heather a Bonus," Duran added: "She has had enough of Mayor Lukela not caring about staff, and how she is being treated" (referring to Heather). Such a statement was not made at the Board meeting. Duran interjected such information into the minutes, which is improper and outside of the scope of her role. Duran's practice of intentionally drafting minutes to support any claim she may have against any Board member(s) or the Town is very concerning. She should cease this practice immediately.

Upon determining that there is insufficient evidence to support a finding of probable cause that Lukela engaged in the harassment of Duran (based on Lukela's notation on her check for payment of her utilities), the Special Investigator recommends that the Board of Trustees dismiss Duran's complaint with no further action.

Dated this 1st of July, 2024.



Kristin N. Brown, Special Investigator