

**TOWN OF BAYFIELD  
REGULAR TOWN BOARD MEETING  
11 W. MILL STREET  
BAYFIELD, COLORADO 81122  
AUGUST 21, 2007 7 P.M.**

**Town Board Present:** Russ Jones, Rick Smith, Mayor Pro tem, Carol Blatnick, Tom Au, Daryl Yost, and Neil Hieb.

The meeting was called to order by Mayor Pro Tem Rick Smith at 7:00 p.m.

Justin asked that two items be added to the agenda. They are the Planning Commission report and the approval of a special event liquor license for Habitat for Humanity. They were placed on the agenda.

**Approval of Minutes:** The minutes of the regular Town Board meeting of August 7, 2007 were submitted for approval. Carol Blatnick moved to approve, as written, the minutes of August 7, 2007. Tom Au seconded. The vote was six in favor. Motion carried.

**General Public Input:** Rick opened the meeting for public comment and asked that it be limited to ten minutes. No one had comments. The general public input portion of the meeting then closed.

**Agenda Item #1: Approval of Bills:** Carol moved to approve payment of bills as presented. Daryl seconded. The vote was six in favor, motion carried. Carol then asked that staff make a note on budgeting about charges for dispatch.

**Planning Commission Report:** Mr. Picolli deferred to Pam Smith for the report. He was absent during the last Planning Commission meeting due to illness. Pam said the request for variance was unanimously approved. The second issue regarding the boundary adjustment at Dove Ranch subdivision was also recommended for approval. The party making the request for the boundary adjustment owns both lots.

**Agenda Item #2: Town Updates:** Justin commented that unless the Board has specific questions, they can approve these as consent agenda items.

There is an RFP included in the packet concerning the financing package for the new town hall.

Marty submitted two different samples of stone for the new town hall for the Boards consideration.

The town does not have title to the senior center location as yet. Marty will not proceed until it is received.

The cleanup of the lot where the new town hall will be placed is not going to be extensive, according to Marty. However, he needs to have the soils testing results before he is sure.

Tom Au again asked about the 3 phase power for the sewer treatment location.

Justin replied that the town does not have the easement yet from the owner, who wants the bridges improved for his use before he grants the easement. However, the electric company also needs the bridge to be improved.

Dirk informed the Board that there is a District Court hearing next Friday on the dissolution of the Sanitation District.

**Agenda Item #2a: Special Events Permit for Habitat for Humanity:**

Rick opened a public hearing for comments concerning the issuance of this Special Events Permit for September 3, 2007. There were none.

Tom Au made a motion to approve the issuance of the Special Events Permit. Carol Blatnick seconded. The vote was six in favor. Motion carried.

**Agenda Item # 3: Sunrise Estates:** Justin is trying to tie up some loose ends. He has been waiting for compaction results. He does not have good information about the project. He met with Trautner on site. The town had asked for a professional geotech opinion. Justin confirmed that a letter had been sent to the developer's attorney. Justin said that Trautner, when questioned directly, was hesitant to answer Justin. Justin received a letter from the developer's attorney saying Trautner was a consultant for the developer. They did not reply that the soils had been compacted. Justin said that the voids in the soil would allow the water to run through. Justin reconfirmed that there is a portion of the ditch that needs to be reconstructed. With compacted soils, if the easement needs to be changed, fine. The developer thinks that specification on the ditch of 18.6 cfs is sufficient. Justin said the ditch needs six inches of freeboard. It is also Justin's opinion that good faith has not been demonstrated, and that the town should move forward with whatever action is necessary to settle this issue. The irrigation system would provide water one hour every other day for each house. He was able to flow it but could not confirm the location of the lines.

Rick asked if there were any questions. Daryl asked if there is a plat map. Then, 'Is there a power pedestal? The answer was 'Yes'. Tom asked if the electric lines follow the water line. Justin said no.

Neil commented that the developer should be able to supply this information to the public works department head, it should not be a task that falls to Justin. Justin confirmed that the easement is reflected on the Sunrise plat.

Tom Au said that Sunrise Villas abandoned every easement out there.

The developers attorney said he was not aware of any abandonment of easements. They had not received any notice on this. However, they are prepared if the board wants to hear their comments tonight.

Cindy Smart, 1330 Kremer, wants the Board to address the irrigation system. The original electric line was in an easement. When those lots were changed to multi family, during construction, a contractor hit a water line which was their irrigation line. The Sunrise Villas developed on both sides of the easement, relocated the pipe, and supposedly never moved the electric line. The electric meter was not properly marked. Ted Wright, HOA representative for Sunrise, was asked to address the board. He said he is still in a discover mode. If they can deliver the responsibility to one party, they will reach the goal. They want to reconfirm the base data. If the source is not correct, they will go to where it is correct. The town has used Brent Adams to get reports. Brent says the town will need to make the decision on how to build it (the ditch) so it works. He says it is the town's responsibility, since the town has the bond. The SIA was evidently defaulted against since the bond was called. The irrigation system needs to be functional.

This is also the town's responsibility, according to Ted Wright. BP needs to be brought into the equation. Carol interjected that the board already has all of this information. Mike Deming, who is the gentleman whose property gets flooded every year as a result of the faults in the ditch said he has not seen a density report. He wants one. He then exclaimed that 'Not a .....thing is being done' and angrily left the meeting.

Rick Loether said they have put up with this for two years. The town has dropped the ball. He expects action.

John Ralph asked to speak concerning the irrigation and electric line issues. He said he can get the electricity to the place it needs to be.

Jim Flint, 1185 Pinon, spoke about the irrigation system. He mentioned 'legality vs. urban expectations'. The town allowed these people to use the water for irrigation. John Ralph said that, where Sunrise Villas are, each building has a tap for water. On each unit, one unit gets charged a minimum for the first 6,000 gallons used. He feels that each of the duplex units should be allowed the 6,000 gallon minimum charge.

He would like the costs to be spread out in order for the costs to be more equitable for all units.

Ken Golden spoke on behalf of the developers. His firm became involved in December 2006. There was a concern at that time for their client. Gosney had made repairs for improvement to the drainage ditch. The work was being done without supervision. The agreement was that no work was going to be done without the towns supervision. Russell (Engineering) said the ditch would work fine except for three small areas. Russell concluded that 40 cfs was the drainage requirement for the entire subdivision.

They concluded that the 40 cfs stipulation was too much, it was far above what the ditch would ever be required to carry. Dirk said the ditch could not be constructed to run 40 CFS within the constraints that exist now.

Mr. Golden said they are trying to determine what the ditch really needs to carry, the 18.61 cfs is an appropriate level according to their understanding.

He said if Mr. Trautner is going to be contacted, (spoken to) their lawyer needs to be included.

Mr. Trautner has said the ditch is not going to fail. Mr. Golden and Dirk have been in dialog for months trying to get an agreement in place to ensure the ditch would work. Improvements were supposed to be inspected before COs were issued, the drainage ditch and the irrigation ditch were supposed to be inspected and o.k.'d before the subdivision was given the go ahead. Mr. Golden was told that the irrigation system functioned as it was designed before the winter set in. It was his understanding that the HOA was to winterize the irrigation system. It is their stance that the HOA did not do this properly. The town has neither confirmed nor refuted this.

To go after the bond, the town would have to prove that it (the ditch) was not functioning as it was designed. Regarding the easement that was designed for placement of the drainage ditch, Mr. Golden said there was an agreement which provides for the developer to use the easement. BP used this easement, and unfortunately dug up a portion of the drainage ditch.

The plat shows the easement goes to the west of the BP easement.

Daryl asked if the ditch was compacted. According to Mr. Golden, the ditch was, the berm was not. They have offered to compact the bottom of the ditch. However, they do not want to do this if they are going to be required to put in the 6 inch freeboard. Mr.

Golden and Mr. Deming were at opposite ends of understanding. Justin mentioned the ditch was not done in lifts. Mr. Trautner told Justin that the soils were not compacted. Daryl questioned, 'how do we reach a working ditch?'

Mr. Golden wants a joint plan.

Rick commented, if water goes through the ditch, the soils are not compacted. The facts work toward Mr. Deming's favor. It is in the interest of the developer to bring this to a conclusion immediately. Rick suggested the board needs to retire into executive session.

Tom asked for a copy of Trautners letter that is readable. Mr. Golden rendered one.

Tom said it appeared that the ditch currently exists in the BP easement. Mr. Golden countered, 'the ditch easement is west of the BP easement'.

If they move the ditch easement, it will be 20 feet into the property owners land.

Justin confirmed that BP made repairs to ditch, at the weakest part of the ditch

Russ Jones moved to go into executive session, citing C.R.S. 24- 6- 402 (4)(b), negotiations. Tom seconded. The vote was six in favor. Motion carried.

The regular meeting reconvened at 8:50 p.m. Rick expressed his thanks to staff and all parties involved in this process. He then asked the Board to proceed. Daryl moved to direct staff to get whatever information was necessary on the easement to hook up power to the irrigation pump, as long as feasible. Neil seconded. The vote was six in favor. Motion carried.

Daryl moved to negotiate with the developers to gain a permanent agreement for piping the ditch. Niel seconded. The vote was five in favor, with one vote in opposition cast by Tom Au. He asked that this agreement be ready by the September 18 board meeting.

**Agenda Item #4: Swanson Boundary Adjustment:** Joe Crain explained the situation at 1708 North Taylor Circle, Unit 3, Lots 9 and 10. This area lies just east of C.R. 501. Those lots have little jag. Mr. Swanson constructed a building that comes within 2 feet of the boundary. He can cure this because he owns the second property. Joe made one condition, saying a formal plat needs to be drawn up, signed and recorded.

A Public Hearing was opened. No one commented. The hearing then closed.

After discussion Daryl moved to approve the boundary adjustment at unit 3 , lots 9 and 10 Dove Ranch Subdivision, contingent upon meeting staff recommendations.

Russ seconded. The vote was six in favor, motion carried.

**Agenda Item # 5 Public Hearing, Annexation & Minor Subdivision, Dave and Linda Hardy, 823 County Road 501:**

Joe Crain said that, at the last Board meeting, the Town did not have the agreements finalized. Dirk has prepared both the annexation and development agreements and plat notes. The zoning requested was commercial on the front, residential on the rear.

Rick opened the meeting for the public hearing. No comments were received. The public hearing was closed.

**Consideration:** Carol Blatnick moved to approve the request for annexation and minor subdivision and the development agreement as submitted for the Dave & Linda Hardy property. Tom seconded. The vote was six in favor. Motion carried.

**Agenda Item #6: Fee in Lieu of Water Dedication:** When property does not have water rights and the owner wants to be annexed, the Town calculates a cost of \$487 per lot, which equates to the cost of roughly ten years worth of water storage. In order to implement this fee, the Town will need to pass an ordinance, and have it noticed. Justin will bring it back before the Board on September 18. He said the cost is tailored to what the town is being charged for storage water. The direction from the Board was for staff to bring back an ordinance as stated tonight.

**Agenda Item #7: Public Hearing: Highlands, Annexation Agreement/Subdivision Final Plat, Jack Roe, Bayview Heights, Inc. Sec. 1, Township 34 N, Range 7 West, NMPM, 39.72 ac:**

Joe Crain gave an overview. This subdivision will have a total of 36 lots. If they cannot come up with a reasonable drainage plan, lots 33, 34, and 35 will be used for a detention pond and drainage area. Dirk will need to clarify this.

The Board can go ahead and allow the lots to be platted, but the lots cannot be sold until the drainage plan is finalized.

The plat will not be recorded until the engineers concerns have been met. The Town will require a statement from the engineer before the plat is filed at the court house.

Lot 36 will have no structure on it unless the Board grants a waiver. Refer to the twelve conditions included in Joes documentation.

They will be required to pay \$17,500 in lieu of water rights.

Joe reminded the Board that they would need to vote on the annexation development and then vote on the subdivision plan and SIA. The annexation agreement has been prepared, according to Joe, and everything is in order.

The engineer needs to certify that all drainage and any other concerns he may have meet with his satisfaction.

Joe said jokingly, "Lot 36 will be "Jacks pond" until there is another solution to the situation that will handle drainage.

Jack has to come back to the town to get the plat restriction removed.

Street lights will be similar to those required in Dove Ranch.

Joe asked Dirk for any comments. Dirk said the Town needs to go thru and have one last item on the plat notes, there is no time line on construction on the new water tank. Daryl said this should be included in the annexation agreement.

Dirk explained that Brent from Souder Miller will state the drainage specifications.

Daryl cautioned that the Town will need to know if the line is going to be installed when the tank is going to be placed. The fill line can't be put in until they know exactly where the tank will be. This needs to be included in both the annexation agreement and the SIA.

Jim Flint, said he 'liked' the twelve conditions submitted by staff. They are also in agreement with using lots 33, 34, and 35 for storm drain purposes.

They would like an 'unencumbrance'. They are in favor of fewer lights.

He said the town engineer should be complemented, Brent is great.

Rick emphasized that the town wants to be sure the line and the tank will be built whether or not the houses are built. The tank needs to be there for the town regardless of the homes being built.

Joe confirmed, plat restrictions are placed on the plat by the approved authority. They will only be removed by the approved authority.

**Public Hearing:** The question was posed, ‘is there a mechanism in place to ensure that the developer can get water service?’ ( Ron Corkish, Commerce Drive). The annexation agreement says there is no water promised. There is no iron clad guarantee that the town will provide water.

Rick answered, when you buy your lot, you pay for the water and sewer. We cannot issue taps if the basic service is not there from the sanitation district.

The town cannot give assurance until the sanitation district situation is settled.

**Discussion:** Daryl asked ‘how did you come up with the numbers for bonding?’ Dirk replied, ‘it is an overall surety. The numbers were arrived at during discussion with the engineers’.

**Consideration:**

**Annexation and Development Agreement:** Tom moved to approve the annexation and development agreement for Highlands at Dove Ranch. Carol seconded. The vote was six in favor. Motion carried.

**Approve final plat and subdivision improvements agreement, (to include time line).**

Tom Au made a motion to approve the final plat and subdivision improvements agreement contingent upon meeting the thirteen staff conditions, and to include specifications for the completion of the fill line which is to be connected to the water tank. Daryl seconded. The vote was six in favor. Motion carried.

A short break was called at 9:35 p.m..

The meeting reconvened at 9:40 p.m.

**Agenda Item # 8: Nuisance Ordinance:** The Board asked why the Town is not enforcing the nuisance ordinance, specifically pertaining to lights and weeds. Justin asked how it would be administered. It would have to be applied straight across the board, it would have to include all people across town. It would take a lot of resources. Jim Harrington has issued summons for nuisance ordinance violations in the past. The summons needs to be very specific about the nuisance that needs to be abated. Justin said, if you go with abatement, you need specific parameters. Rick commented, the Board is specifically concerned about the caretaking of landscaping in the business park. The Town needs to portray a positive ‘Let’s make Bayfield beautiful’ approach, and ask people to do the same. ‘Take pride in your property’. Then, if people do not respond, the Board can get more serious with abatement. A positive approach is a better approach. Education needs to start in homes and schools. Justin said he would get something in the fall newsletter and would keep it in the positive mode.

The board asked if enforcement of the lighting code falls under the purview of the town building inspector. Mike conducts the building inspections, but does not go back after the fact to check the outside electrical fixtures. After a CO is issued, enforcement falls to the marshal.

**Agenda Item #9: New/Unfinished Business:** Transfers do not require going before the board. A transfer can be done administratively.

The Board asked ‘Why do we construct a water line on someones property without the signed easement agreement?’ Justin replied that David originally agreed to signing the easement, we were going onward. Then David changed his mind.

Justin thinks he can resolve the issue. Daryl commented ‘ we should not be spending money on property that does not belong to us! Rick replied, ‘we learned a lesson’. David received an extension till December. He will need to come back to the board then. Tom Au presented a sample of the town logo done in wood inlay. He asked if the Board approved of it. If so, he will give the information to Justin and get a quote. Carol asked about the position for Parks and Rec director. Andy will leave September 5. The town had another applicant at the same time Andy was interviewed. Carol asked if the Town could go ahead and ask this person to accept the position. Tom said, in his opinion, this person was the #1 choice at the beginning. He is local. Carol agreed with Tom. Staff was instructed to go ahead and contact the man. Justin will give it more consideration, but he feels good about offering the position to this man. Rick said the staff wants to follow through on the Dove Ranch Unit 3, preliminary plat. There was a notation that two lots were to revert back to Brad. Rick said ‘make sure that we do not give the rights of way or the greenbelts away’.

Motion to adjourn. 10:20