

**THE TOWN OF BAYFIELD  
REGULAR MEETING OF TOWN BOARD  
11 WEST MILL STREET, BAYFIELD, COLORADO 81122**

**December 18th, 2007**

**Town Board Present:** Rick Smith, Russ Jones, Carol Blatnick, Mayor James Harrmann, and Tom Au. Neil Hieb arrived at 7:25 p.m.

**Staff Present:** Justin Clifton (Town Manager), Pat Anselmo (Town Clerk), Joe Crain (Town Planner), Dirk Nelson (Town Attorney), Marty Zwisler (Project Manager)

**General Public Input:** None was offered. Public input closed.

Russ mentioned that Agenda Item # 14 needs to be corrected. It says Resolution # 215. It needs to be corrected to read Resolution # 214.

Justin also added the documents for the dissolution of the Sanitation District. Rick so moved. Tom Au seconded.

**Agenda Item #1: Approval of Bills:** Carol asked about the invoices pertaining to stolen items. It was explained that a propane tank and a propane heater were both stolen from the pavilion during the Olde Fashioned Christmas festivities. She also asked about the invoices for Souder Miller on page three. She wondered if these invoices were for initial reviews, re-reviews, or something different. Justin said that Souder Miller reviews plans that come in at all levels. Some are quick, some are in-depth reviews, and some are re-reviews.

Carol moved to approve the payment of bills as presented. Rick seconded. The vote was four in favor. Motion carried.

**Agenda Item #2: Planning Commission Update:** Robert Picolli gave the Planning Commission report. He apologized, saying the date should be December 11, not November 11.

**Trinklein Subdivision:** Scott Trinklein and Lynne Matievich are requesting a subdivision of their lot into two lots. They will be required to purchase a water and sewer tap. The Town engineer commented that the easement across lot 1 should be dedicated to the owner of lot 2, as well as the providers of utilities. They will also be required to obtain an access permit through CDOT with both lots sharing one access. Scott questioned the necessity of paying a park fee. The P.C. recommended approval subject to meeting the three staff requirements and add a requirement concerning the dedication of the easement to the owner of lot 2.

**Use Permitted on Review:** Shane Mottin (Owner of AJ's Pizza) requested a "Use Permitted on Review" for 126 Mill Street. He plans to move his restaurant there. Under the Mill Street District, restaurants are a 'Use Permitted on Review'. Joe Crain said that this request would be a compatible use on Mill Street. After considerable discussion, Pamela Smith moved to have Mr. Mottin come back to the next P.C. meeting and bring a drawing that would specify access, location of the dumpster, parking availability, ditch transition (piping) and clarification on the fence line placement. Bob McGraw seconded

the motion, the vote was five in favor, motion carried. Shane Mottin will come back in January with drawings and more detailed information on the areas of concern.

**Valcor Annexation:** This area is currently zoned industrial. It meets contiguity requirements, and the proposed use is in accordance with that of surrounding properties. The owners, (purchase is in process) are Michael Snooks and Cory Gosney. They are requesting annexation. They intend to put CRG Construction there. Staff feels it is important for this land to be annexed. They will need to abandon the existing septic system. They have agreed to purchase water and sewer taps from the town. Since they anticipate using the building for equipment storage, water and sewer are not in the forefront of concern. The Planning Commission moved to recommend approval of the annexation to the board.

**Homestead Trails Subdivision PUD:** The developers are seeking a PUD (Planned Unit Development) through either the County or the Town. The Town Board agreed to conduct a complete review as if the development was going to be within the Town. The new covenants do not allow for modular homes, although initially 40 homes were allowed modular units. Under the County code, they can build 99 units before a second access is required. Joe explained that Homestead will probably approach the Town of Bayfield for water service. Staff recommends approval of the PUD sketch plan upon meeting six requirements. (Refer to Planning Commission report detail).

Michael Russell with Russell Engineering spoke about the developments phases, what has been accomplished and what remains. He talked about running a water line from the Town out to their project. The cost would be born by the developer. They will also need to install a lift station (if it is decided to pipe the sewer collection to the Towns new plant). If a lift station is used it would pipe all of the flows from not only the Homestead Development but from Gem Village as well. CDOT will not allow access from the existing business frontage road at Gem Village because they are trying to prevent stacking. Homestead will access County Road 509 from the development when the need arises. The Planning Commission recommended approval of the PUD sketch plan if they include a larger park of 10 to 12 acres or a complete turn-key park and that they dedicate an easement for an addition lift station if it is required.

**Weeds:** After consideration discussion, it was determined that the Planning Commission is not certain which direction to take. They suggested the pursuit of adapting a low-spray policy integrated with a weed management program.

### **Agenda Item # 3: Town Updates:**

Niel Hieb arrived at 7:25 p.m.

Justin has been working with the City of Durango to get a camera for the sewer line work.

Justin talked to Butch Knowlton who said he would need a draft from the Town of Bayfield to get a review board going.

Carol asked Marty how things are going on his projects. He remarked that the work has been slowed a bit by the weather but it is going as planned, on schedule and right on budget.

Tom Au spoke concerning the Sunrise conundrum. He asked if Goff was the engineering firm at that time, how they could serve as an independent review firm now. Dirk responded that Goff did not do the analysis; they only reviewed Russell's numbers. Dirk

spoke with Bruce, who is o.k. with doing the independent review. The developer and the Town are both comfortable with having Goff do the review (on the ditch). Tom also asked about the improvements being constructed to Town standards if the Town doesn't have standards. The Town automatically defaults to Durango's standards. Tom questioned 'Why is the HOA going to sign off?' Dirk said 'They are going to take over maintenance; ultimately, the Town wants to make them happy so they will not want to sue us sometime down the road'. Carol stressed the importance of demanding adequate drainage.

Rick asked if the bonding agency has agreed. Justin answered 'no, but this is only the initiatory work for the engineer to look at before it goes to the bonding company'.

Dirk commented that the work from Brent (Souder Miller) needs to be clarified a bit.

Tom Au asked if Jack Roe (concerning the new water tank) knows that he has to have road base in by mid-April. Justin replied, "Yes, we have asked him to mitigate to keep the mud from coming down and clogging the Town's rain drains." Jack has to have a storm water drainage plan to be in accordance with State law.

#### **Agenda Item # 4; David Black Easement:**

During the last Town Board meeting, the Board moved to continue this until the first meeting in January. Justin didn't realize this. He went ahead and prepared the documents. He then asked the Board if they wanted to wait until January to hear this item. Rick re-affirmed, 'we did say we wanted to continue this to January'.

David Black was in the audience, he said he was not aware that this was on the agenda tonight and that considering the tenor of the last meeting; he does not want to go through a second tension-filled meeting. He did not intend to handle this tonight. He would like to wait until January so that his attorney can be in attendance. Justin asked that the Board keep the information that was included in the packet so it will be available (without reprinting) for the meeting in January.

Carol confirmed 'we will hear this matter in January'.

#### **Agenda Item # 5: Public Hearing/ Consideration: T & M Minor Subdivision, Scott Trinklein & Lynne Matievich, 1844 Highway 160B – Parcel # 567712200061:**

Scott Trinklein wants to create two parcels. The zoning is currently R-10. Public Works has said Scott will need to buy a new sewer and water tap. An easement should be dedicated to the owner of lot two. This is a minor subdivision. There needs to be an agreement signed specifying that no building permit be granted on the second lot until a driveway is constructed. Justin submitted a will-serve letter on behalf of Bayfield Sanitation, saying sewer service will be provided. Joe Crain went over the details. CDOT replied that a new access permit will be required & the two lots will share the current access. The Planning Commission recommended approval. Scott will need the CDOT access permit, will need to pay a park fee, and to sign an agreement that no building permits will be issued for the new lot until utilities are in place. The road will be the responsibility of the lot owners.

Scott questioned the requirement of having to provide cable television and natural gas. He did not agree with these requirements. The Board pointed out that the LUC (Land Use Code) requires extension of all utilities. Scott said that a future owner may decide to go

with propane and he wondered why he has to put in gas lines. Herm replied, 'it may not be necessary but it is in the code. You just need to take the installation to the lot line" The gas company wants to install the line. The access (road) is the utility easement. Scott said he met with CDOT about the access. They are ok with using the existing access. He is aware that the utilities and road have to be in place before a building permit can be issued. Any new owner will know they have this expense. Proof of the CDOT permit and payment of the park fee are required before recordation.

The Mayor opened the meeting for the Public Hearing. No one had comments.

The public hearing closed.

*Consideration:* Carol moved to approve the request for the T & M Minor Subdivision, for 1844 Highway 160 B, Parcel # 5677-122-000-61. Sec 12, T 34 N, Range 7 W, NMPM, .75 acre parcel to two small parcels, upon meeting conditions 1 thru 4. Rick seconded. The vote was five in favor. Motion carried.

**Agenda Item # 6: Approval of T & M Subdivision Improvement Agreement:**

This is the agreement that will be recorded so that it is known what goes with the plat. Dirk confirmed that the SIA is a simplified version. Roads and utilities will be the responsibility of the developer. Rick moved to approve the Subdivision Improvement Agreement for T & M Subdivision. Tom Au seconded. The vote was five in favor. Motion carried.

**Agenda Item #7 and #8: Request for Annexation, 2282 Hwy 160 B, N ½ Sec 12, T 34 N, R 7 W, NMPM, Parcel # 5677-122-00-012, approximately five acres.**

Joe Crain explained that the property is now owned by CMR Properties, LLC. The plat still reflects Valcor Corporation so this request carried forward in Valcor's name.

It is a five acre tract of land. They will be required to purchase water and sewer taps. According to San Juan Basin Health, the property has an ISDS. The owners will need to decommission the current septic system. The Sanitation District will have to run lines to service the property. There is no access permit so CDOT will need to issue one. The current Land Use designation is "Industrial" and the applicant are requesting to keep this designation. The Planning Commission voted to recommend approval subject to two conditions 1) that they either transfer an adequate amount of water rights or pay an in lieu of fee 2) The owner conforms to the requirements of San Juan Basin Health Staff concerning the ISDS.

The Mayor opened the Public Hearing. Carol McWilliams asked if the annexation shouldn't be under the name of CMR. Dirk affirmed that it should be CMR, not CRG.

This is the correct acronym.

The public hearing closed.

**Consideration:** Rick moved to approve Ordinance # 328, an ordinance of the Town of Bayfield Colorado annexing certain property owned by CMR Southwest Properties LLC into the Town of Bayfield and designating a Land Use for the property. (Plat reflects Valcor as owner, the purchase of the property is in process & CMR will be the owner when complete). The address of the property is 2282 U. S. Highway 160B. Tom Au seconded. The vote was five in favor. Motion carried.

**Agenda Item # 9: Approval of Valcor Annexation Agreement:**

Rick moved to approve the Valcor Annexation and Development Agreement. Carol seconded. It was emphasized that the plat still shows Valcor, even though the owner will be CMR Properties LLC. The agreement shows the current owner, the plat shows Valcor. The vote was five in favor. Motion carried.

A five minute break was called at 8:05 p.m.

**Agenda Item # 10: Homestead Trails Subdivision PUD:**

Joe Crain gave a short introduction of Homestead Trails Developers Jack McCarthy. Homestead is still seeking ways to consummate annexation. It is still unknown whether they will go through the Town of Bayfield or the county. Joe asked the Board if they wanted to review the processes as they occur and if so, how. The town wants to go through the reviews each time Homestead comes in with a request as if they were already a part of the town.

This is a 240 acre tract of land, and dedicates 40% to open space. The Town's requirement for a PUD is 30% open space. They have more than complied with the required amount. They are pulling the higher density home sites farther away from the highway. They have kept the corridor for wildlife. They have changed the covenants in the development to require stick built units. They had originally permitted modular homes. The County code does not require park land. If Homestead were in the Town, they would need 12 acres of dedicated park land. The total units are 396, with 40% of the land kept open. They have a passive trail system. They have also agreed to meet Town standards whether they are in Town or not. They have asked that they not be required to do curb and gutter. If they are annexed, the conceptual plan would be acceptable to the Town.

There is a fair size ditch that goes through the property, the King ditch. Homestead will be, sooner or later, requesting Town water. They want to keep the soft trails in the subdivision. Streets would be dedicated to the public upon annexation. They have currently dedicated six acres to active park land.

Recommendations are outlined in Joe Crain's memo dated December 14, 2007.

Homestead Trails will work with the Town on cost sharing of the intersection on Highway 160 when it commences. Their development will set aside an easement for the lift station for the sanitation district.

Joe asked that Homestead give their presentation. Ann Christensen with DHM Design gave a presentation on behalf of Homestead Trails. They will dedicate park land, (8 to 10 acres), close to the wet lands. The higher density lots are moved away from the view of the highway. The lower 40 acres will be low density sites. Primary access is the existing Homestead Trails road. A secondary access will be on C. R. 509. They will have looping trails systems with links to bus stops, wet lands, and the wildlife corridor. The county stipulates after 99 homes they would need an additional access. The development will now only allow all stick built homes, i.e., no modular homes. They will stipulate default colors, and implement elements to protect the owners.

The developers are asking for an approval of the sketch plan as if they were requesting annexation. Rick moved to approve the sketch plan for the PUD conceptual plan with staff recommendations as listed. Carol seconded. The vote was five in favor, motion carried.

Joe explained that PUD's are done in phases. They will come back with each phase for approval. Carol asked about the intersection of C. R. 509 and Highway 160 B. Joe replied 'everybody says it needs to be improved but nobody wants to pay for it'.

**Agenda Item # 11: Sanitation District Discussion: Including Greg Woodward:**

Greg Woodward with Stantec was present. He gave a short presentation, explaining that the contract for design and construction management of the new plant will be approximately \$1,000,000. The Town is also paying Stantec to apply for the permit increase, the design of the interim improvements and other miscellaneous work. Greg created the design and will oversee the construction of the new plant. He helped to procure equipment.

Justin said that Gem Village was in full compliance last month. However, the Town of Bayfield was not.

Dissolution: There will be some snags, according to Justin. The assumption and bond will overlap the first of the year. The State has communicated to Justin that they are reserving the right to impose fines. If they decide to impose civil penalties, they wanted to have the necessary time to analyze the situation. They do not want any entities to benefit from negligence. Justin is suspicious of this clause, saying 'they are basically reserving the right to fine Bayfield. They want to come up with a fine that is reasonable'. He feels this is highly unjust based on the fact that since the first violation was discovered, the Town has spent \$943,000 to get the plant into compliance. Justin said that a fine of any amount would be audacious. Russ wondered why this is coming up now & why they didn't impose fines when the Sanitation District was in charge. Justin feels that the dissolution triggered this action. They want the Town to realize they do have the authority to impose fines, and that the Town realizes it is taking on this responsibility. If they want to impose any significant fines, it has the opposite effect of helping solve the problem. Russ emphasized, 'our board is not the one that caused the problem'. The rates that users would have to pay would be a premium if any fine is imposed. Rick said it sounds like they are covering their bases. They want the Town to realize that they do have the right to impose fines. They have specified that they are looking for a reasonable fine. Neil said there should be an avenue for appeal. Dirk replied, 'it is done, we have taken it on.'

Justin asked Greg to update the board on the construction progress. They went through the process with the Sanitation District to get the work awarded to them. They have to complete some environmental processes within the next several months.

They must run a request for an increase in organic processing. They are running tests in front of and behind the filters. The Bayfield plant was not in compliance this past month. Rick asked what the time line is on getting increased capacity ability. Greg replied that there are no time lines, basically.

Rick queried, when will the new plant be operating? Greg answered that based on funding and other factors the Town should be able to commence construction around April 25, 2008. They will be issuing contracts at the end of March. They have ten months for construction, one month for start up. They should be ready for final acceptance by February of 2009. There is a clause that addresses liquidated damages in the contract. The contractor is expected to pay if he does not complete the project on time. He said there will be a resident engineer during and through construction.

He has been with Stantec for fourteen years. They have 1000 people who work on water and waste water processes. He explained the 'anaerobic' system of not using aerators, not incorporating air into the lagoons. The AIPS system is taking care of the majority of the bulk.

Bill Jenkins came in today, the bridges are done but LPEA has not followed up with him on completing the installation of the 3 phase power. They are pouring the pad for the transformer. Justin is waiting for a signature for the easement on the Weibe property. The Sanitation Board moved to draft a letter to the property owners, to be able to finalize the easement negotiations. The Town needs to seriously negotiate that access, perhaps to the extent of condemnation. Justin has made repetitive efforts to get property owners to respond. Justin is moving ahead to get the contracting funding done through the EPA grant as soon as the bill is signed by the President.

The last Sanitation Board meeting was last night. The Town Board thanked Ed Morlan for seeing this process through to fruition.

**Agenda Item # 12: Ordinance #329- Sewer Ordinance:**

Dirk said that the Town has attempted to adopt a global regulation for sewer. There is a lot of technical substance generated from what the Sanitation District is currently doing. People are receiving sewer service even though they are not annexed. The Town has adopted the same ERT standard that the Sanitation District currently has. The schedule is identical to the Districts. The State wants to be sure that the Town is doing an adequate job. Ed asked about the rate study. Justin answered, 'it is in the near future, but not moving now'.

The Mayor opened the meeting for Public Hearing. No comments were given. The public hearing was closed.

**Consideration:** Rick made a motion to approve Ordinance # 329, an ordinance of the Town of Bayfield, Colorado for the Purpose of Establishing Rules and Regulations Pertaining to the Towns Sewage Collection and Treatment System and Amending the Town Code by the Addition of Chapter 15, Section III to the Town Code. Carol seconded. The vote was five in favor. Motion carried.

**Agenda Item # 13: Public Hearing: Ordinance # 330: Sewer Enterprise:**

This ordinance will establish the Town's ability to assume the loan. Revenues will be derived out of operating the Sanitation District.

The Mayor opened the meeting for public hearing of the ordinance.

The plant investment fees will be used for paying for the sewer treatment plant, the monthly fees will be segregated from the tap fees.

The public meeting was closed.

**Consideration:** Rick moved to approve Ordinance #330, an ordinance of the Town of Bayfield establishing a sewer enterprise. Russ seconded. The vote was five in favor. Motion carried.

**Agenda Item # 14: Public Hearing: Resolution #215 Sewer Rates:  
(This agenda item has a typo; the resolution # should be 214)**

This resolution establishes a set of rates. It gives the Town the authority to impose rates for plant investment and monthly fees. These rates are identical to the Sanitation

Districts existing rates. Taps sell for \$6000 in the Town limits, \$3500 in Gem Village, and monthly rates are to remain the same.

The Mayor opened the meeting for public hearing of resolution # 214. The intent is to get a unified rate structure. There was no public comment.

The public hearing was closed. Rick moved to adopt Resolution # 214, a resolution of the Town of Bayfield, Colorado establishing Rates and Charges for Sewer Service Provided by the Town, as outlined in Exhibit A. Russ Jones seconded. The vote was five in favor.

Motion carried.

**Assignment, Acceptance, and Consent of Professional Services Agreement:**

Rick moved to accept the assignment of professional services agreement, effective January 1, 2008 with Stantec Consulting Inc. Carol seconded. The vote was five in favor. Motion carried.

**Agenda Item # 14 A: Ordinance #331: Taking On Debt:**

The Mayor opened the meeting for public hearing. No one had comments.

The public hearing portion was closed.

**Consideration:** Niel moved to adopt Ordinance # 331, assumption of debt by the Town. This Ordinance is comprised of Section 1 through Section 15. Rick seconded. The vote was five in favor. Motion carried.

**Agenda Item # 14 B: Resolution # 215: A resolution of the Town of Bayfield, Colorado, authorizing the officers and staff of the Town to take all actions necessary to complete the dissolution of the Bayfield Sanitation District**

This Resolution authorizes staff and the mayor to sign any documents that are required to effectuate the dissolution. Neil moved to adopt resolution # 215 authorizing officers and staff to take all actions necessary to complete the dissolution of the Bayfield Sanitation District. Rick seconded. The vote was five in favor. Motion carried.

**Agenda Item # 15: Cinnamon Heights:**

Justin said that the town has provided adequate notice to George Kasnoff, Bayfield Development, LLC regarding default in the Subdivision Improvement Agreement. His response is ludicrous. Justin has told him many times personally. The Town intends to find him in default. Mr. Baty is here representing Bayfield Development. He learned about this problem at 3:45 today. Rather than build a big case, he called Dirk to see if they could come to a sensible solution. He thinks George recognizes that there are some things that remain, and he (George) *is* responsible. Although MD is in process of buying this development out, George will be held responsible to meet a time line within which to complete the items on the punch list (by a certified contractor): he *will* have this by Jan 10. The Town will wait until January 10 to call the letter of credit.

The work was supposed to be completed in April of 2006. Mr. Baty said the Town has proved its case. Justin is hesitant to believe George, as he (George) has promised things before and not followed through. Justin is extremely concerned about the over excavated lot next to the existing home. The dirt is sloughing off about 5 feet away from the foundation. There are things that can't wait and this is one of them. He has no confidence that George will follow through with his promise. Justin wants to find the



developer in default and proceed. Mr. Baty said the Jan 10 deadline was his idea. Many of the contractors are unavailable before then because of the holidays.

Mr. Baty said that Justin's remarks are right on base. The things on the punch list are the priority. Russ concurred with Justin, find the developer in default and Carol agreed.

Russ said 'we do not want to get in a contest over the punch list'. Rick moved to find the developer in default under the terms of the SIA, to call the letter of credit, but to put the collection of the letter of credit on hold until January 10th to give George's attorney time to provide proof of contracts with contractors working on behalf of Mr. Kasnoff, and the time to get the work on the punch list completed. Russ seconded. The vote was five in favor. Motion carried.

Rick asked to be excused 10:00 p.m.

**Agenda Item # 16 New and Unfinished Business:**

Carol requested that staff create a list of the costs incurred while replacing the water line on David Blacks property in order to provide him with documentation as to the value of the work done on his property.

Tom Au wanted the minutes to reflect, in definite clarity, that Goff was the engineer for the Town and had been included in some of the reviews for the Sunrise development.

Tom is not convinced that Goff Engineering can give an unbiased opinion on the events that occurred during Sunrises projects. He also wanted the minutes to reflect that a gentlemen who resides in Cinnamon has a lot of water in his crawl space. Justin had confirmed to this man that water in the crawl spaces for houses located in Cinnamon was a normal event. He suggested the man install a sump pump.

Motion to adjourn 10:05 p.m.