

**THE TOWN OF BAYFIELD
REGULAR MEETING OF TOWN BOARD
11 W. MILL STREET BAYFIELD, COLORADO 81122
DECEMBER 4, 2007 7 P.M.**

Town Board Present: Rick Smith, Mayor Pro Tem, Russ Jones, Carol Blatnick, Tom Au, and Daryl Yost. Mayor Harrmann was excused due to illness. Neil Hieb was absent.

Staff Present: Justin Clifton, Town Manager, Pat Anselmo, Town Clerk, Joe Crain, Planner, Dirk Nelson, Town Attorney, and Ron Saba, Director of Public Works. Marty Zwisler, project manager, was also present.

Media: Carole McWilliams, Pine River Times.

Planning Commission: Robert Picolli, Chair, and Pamela Smith.

The meeting was called to order at 7:03 p.m. by Rick Smith, Mayor Pro Tem.

Approval of Minutes: Carol moved to approve the minutes from November 6, 2007 as written. Tom Au seconded. The vote was three in favor, with Tom Au abstaining from the vote. Motion carried.

Approval of Minutes: Carol moved to approve the minutes from November 20, 2007 as written. Tom Au seconded. The vote was four in favor, motion carried.

General Public Input: David Black, 606 Buck Hwy., spoke. He is concerned that there is an extreme safety issue at the intersection of Clover and Mustang as you enter Mesa Meadows. There are real estate signs placed on the towns right of way. They should be removed. The signs create a visual obstruction at the intersection.

Dan Naiman spoke. He exhibited a copy of the 2005 IBC. and re-enforced that in this code, there is a section that addresses the right to appeal, Section 112.1. He is requesting that the Town Board appoint a Board of Appeals.

Kerri Bayles, 1291 Juniper, addressed the Board. She has had problems with the Sanitation District over the past several months. They have had the sewer back up into their lawn four times over the past several months. Their realtor said their house was unsuitable for sale as it is. She needs a solution. Although she has complained several times, the problem has not been remedied.

Justin said the main line continues to get clogged. The sanitation crew cleans them out on a regular basis. Unfortunately, people are putting things they should not into the sewer line. A second problem is that the sewage should back out at the manhole, and would if the elevations are appropriate. It would have been the builder's responsibility to see that the elevations were done correctly when the house was built. The problems originate from the construction of the home.

Rick asked that Justin look into some possible alternatives, some way to situate the main line to assure that sewage won't back into their property. Daryl mentioned that there has to be a permanent solution to this situation. It has been going on for a long time....years. He then asked if they could install a lift station. Ron answered 'no'. Carol Blatnick then

said 'put some more effort into getting a workable solution'. Daryl reiterated, this has been going on for fifteen years or more. Carol stated 'we are taking on the Sanitation District, therefore, this becomes our problem'.

Agenda Item #1: Approval Of Bills:

Carol Blatnick asked if the Town is going out for bids for police magistrate. Justin replied 'as soon as possible'.

Concerning the amount paid to Robert Ludwig: the marshal offices took notes from Robert on how to change the lights at the school. Daryl asked, 'can we get them?' Carol moved to approve the payment of bills as presented. Tom seconded. The vote was four in favor. Motion carried.

Agenda Item #2: Updates:

Justin asked if there were questions on issues other than what was included in his "Updates Section" of the packet.

When asked about the recycling effort, Justin reported that the County gave \$100,000 to regional recycling efforts.

The County denied the Towns request for \$100,000 for help on the costs of new water salesman.

Justin is working on a water rate study. He explained that the Town was very fortunate to get a full grant from DOLA because (Ken Charles said) the Towns rates are so low. Ken said Bayfield should be generating more from its fees.

There is a letter of credit in the amount of \$50,000 held by the town for Cinnamon Heights. The problem is, Justin explained, that the developer is MIA. The remaining lots are junked up, there has been no landscaping, and the towns only recourse would be litigation. Justin said he will send a letter to find the developer in default, but the towns resources are limited.

Daryl wondered if the town would be within its rights to build a retaining wall on private property to keep an existing home from being damaged.

Tom Au asked about the progress on the 3 phase power. Justin said the easement language was being finalized and LPEA was gearing up to do the work the last time he spoke with them. They should be completely done by now. He will follow up on this.

Agenda Item #3: Liquor License Renewal, Giant Industries:

Pat had spoken with Gary Maestas at the Bayfield Marshals office regarding this renewal request. The Marshal has received no complaints regarding the sale of liquor at this location. Daryl moved to approve the annual renewal of the liquor license for Giant Industries, dba Giant Store #063 located at 650 Buck Highway, Bayfield, Colorado. Tom Au seconded. The vote was four in favor. Motion carried.

Rick asked if any of the board members had questions for Marty.

Justin is working on the Eagle Park restroom project so he can forge ahead with it next spring.

Daryl wanted to point out that the Town is getting \$412,000 additional funds for the sewer plant to be used, in part, for the acquisition of property. In the last two cycles the town got \$2.5 million in grants

Agenda Item #4: Public Hearing – Annexation & Consideration- David and Linda Hardy, 823 C. R. 501 NW ¼ of the SW ¼ of Section 2, T 34 N, R 7 W NMPM Parcel # 567702400070:

Joe Crain explained that the annexation had previously been approved. The Ordinance regarding the annexation was never passed. This ordinance, #327, was placed on the dais tonight for Board review and consideration. Rick opened a public hearing for consideration of Ordinance #327. No response was received.

The public hearing closed, and the Board was asked to proceed with consideration of Ordinance # 327. Carol moved to approve Ordinance #327, an ordinance of the Town of Bayfield, Colorado annexing certain property owned by David W. Hardy and Linda A. Hardy, into the Town of Bayfield and designating the Land Use for the property. Russ Jones seconded. The vote was four in favor. Motion carried.

Agenda Item #5: Continuation of Vested Rights, Highlands at Dove Ranch:

Joe Crain addressed the Board. The Towns approval of the final plat for the Highlands at Dove Ranch was good for a ninety day period which was to expire at midnight on November 21. On November 18, 2007 the Board extended this deadline to midnight tonight. The Town needs the easements finalized in order to get access to the tank site and to gain ownership of the site itself.

Dirk mentioned that the process involved both the construction of a flow line, and construction of a road to get to the tank.

Joe said they had included a provision stipulating that Jack would build an access road which would be durable enough to accommodate the weight of concrete trucks.

The mayor has already signed the paperwork for the Easement Dedication and the Agreement to Convey Easement, but Joe wanted confirmation from the Board that they are still o.k. with the easement documents language. If the Board gives him final approval tonight, the Town will file them this coming Friday. Joe recommended granting Jack a continuation to June 4, 2008.

Justin commented that, after meeting with Jim Flint, he knows that a PRV (pressure reducing valve) will be necessary to reduce the flow to homes at the lower level of the housing project. He wanted a determination of who should pay for the PRV. Justin explained that Jack had water rights, and perhaps instead of dedication of water rights to the Town, Jack could install the PRV. The distribution line could be used, the town would bring the line to the outlot, Jack would take it from there to the lines in Dove Ranch.

Daryl questioned ‘what happens if the agreements don’t get filed?’ Joe replied, ‘we would definitely file them before Dec 7’. Carol instructed staff to work with Jack to ensure the correct materials are used for the water lines. Justin reassured her, ‘we will make sure there are no slipups’.

Design is underway for the new tank. Concern had been expressed that Brad’s (Bradley Elder) pumps were not adequate to deliver the amount of water necessary. Replacing the

pumps would cost about \$30,000. Justin explained that since the town financed it to begin with, there isn't much recourse.

Justin anticipates going out to bid (for pumps) next February. Ron said he knows who made the mistake, Brad used numbers that Russell Engineering gave him. The pump station would have worked at the 7320 elevation. The tank is actually at 7380.

Jim Flint was asked to convey his thoughts. Jim said that they would like to process a three lot subdivision. Joe Crain explained, they would come through the process, the town would annex the property, they then could ask to have a three lot subdivision.

There will be one house on Lot 36, the outlot will be used for the tank.

They will bring the building plats back to the planning commission when they are ready to build. If the big subdivision doesn't proceed, the town can still take title to the tank site. Jim Flint reaffirmed to the Board that Highlands at Dove Ranch wants to be in the town.

Carol moved to approve staffs recommendation for the extension of vested rights for six months, to expire June 4, 2008, upon meeting the following conditions: 1) The Tank Site, Water Lines, and Access Road easements are granted to the Town of Bayfield by November 30, 2007. 2) That Mr. Roe, on behalf of Bayfield Heights Development Co., signs an Agreement to Convey Easement by November 30, 2007. 3) That Mr. Roe be responsible for whatever improvements are needed, that he builds the access road to the tank site, which must accommodate the width and weight of cement trucks in order to facilitate the building of the water tank by March 30, 2008. Russ seconded. The vote was four in favor. Motion carried.

Agenda Item # 6: David Black Easement:

The Town has installed a water line replacement on David's property. Justin failed to get a signed easement from David Black before the construction started. During the construction process, David became unhappy with the way things were being done. Justin thinks the town covered all its bases to address issues David has brought forth. He submitted issues one through eight which are reflected in Justin's memo regarding the Dave Black Easement. Justin thinks that some demands are legitimate, some are absolutely not. Justin relayed to the Board that David did review the plans prior to construction and said he was ok with them at that time. Justin then spoke to David's request for a waiver of invoices, a two year warranty, and a weed mitigation plan. Justin is willing to remove the soil (down to a reasonable depth) around the area where the water line was crushed and replace it with fresh soil. The Town plans to remove the old PRV next spring. Some old asbestos pipe was broken, the town is ok with fixing that. Liability for the water service lines should not be the liability of the town. The code specifies that when a meter is further than ten feet away from the water main, it is the owner's responsibility. The bottom line is, according to Justin, it will be the owner's responsibility to install service lines. The town should not take responsibility in this case because the town would not as a course of action ever do that.

The water seeps are a product of the old asbestos line. Fixing the asbestos line should take care of this. There are springs and ground water very close by. There is a limit to what the town should be required to do. The plans were presented to Black before construction began.

Mr. Black was invited to respond. He said he was not given any plans to review before construction began. He also said that Justin pointed out the approximate location of the PRV. David met with Ron about what they were going to do. He allowed work to commence. Things that were originally presented were changed. The PRV is not at the grade it was supposed to be. He was never told it would be above ground.

The patch on his driveway was not done in a satisfactory manner. The asphalt was not appropriately compacted. There was a lot of thistle seed in the dirt the contractor brought in. The cap water line is not two feet. It is more like six or seven feet, perhaps eight. He showed pictures which show where the old water line lay. The services are in the same ditch, the water lines were installed by the contractor.

David said he had no seeps before this all started. Now he has seeps in the middle of his platted lot. It is all mud. When the town dug up the old pipe, it caused the seep to start. He is asking that his final plat be allowed to come back. It has to change because of the water line placements. There are three water lines that run in one ditch. All of the meters used to set next to the houses. Now they are far away.

His request for subdivision will be coming back for the third time. He does not have an easement in place. It was an original condition of the approval.

Carol asked if Ron supervised this project. Ron answered yes. She asked if David agreed. At this point in the meeting Ron and David had a verbal confrontation. Justin said the town had been given approval by David. The town did a lot of digging to find the lines. The main line is in a new location, the meter needed to be put near the main line. The pipe material was certainly an upgrade.

Carol asked that the Board be able to see a plot of all lines. Justin said he would bring back the plats and maps for the Boards review.

Whether or not the Town takes on liability is dependent upon how they were installed.

Ron said the new line is ten feet to the south, he dug up 300 feet trying to find them.

Ron put the meters where the easement was planned. The services were sixty feet from where they had been led to believe.

Robert's (Ludwig) map showed the taps. They were within 30 feet of the house. It is all filled in, but the seep is everywhere. It has made a swamp out of one of his lots. Victoria designed putting the tap out of the ground. David said he needs to reconfigure the lot because of the height of the tap. David continued, 'they dug up the old red wood line, the existing PRV is half way below water. There is two to three feet of water in it right now. The old prv needs to be taken out, and the pipe itself sealed up, whether it is the red wood or the asbestos line.'

Justin reaffirmed, the town is willing to remove the old PRV.

David was adamant, the water is coming from the broken line.

Rick said Item #3 is taken care of, Item #4 will be handled in the spring. The line will be sealed as soon a spring is here.

David said he was ok with this. He said the crushed pipe is the asbestos pipe. Rick said the town will dig that up, digging to two or three feet, just enough to get the shards out.

Rick stated, 'if you disturb an asbestos line, you have to abate it. If Dave puts in foundations, he will deal with it'.

Dave retorted, 'you have already ruined my drive way. The cut was eleven feet wide and almost twenty five foot long. Carol commented, the Board agrees with Items 3, 4, and 5. However, they need more information to make a determination on the rest.

David said if the Boards wish is to continue this, he is ok with it.

Russ asked if the easement was signed. David answered, he didn't see it, the work was underway before he got the final easement plat. In order for David to record his subdivision, he must sign the easement.

David argued, his expectations were not met, his demands were not met.

Rick summarized, at this point, he wants to continue this matter until the first meeting in January, and asked staff to have all documentation ready at that time. He will not accept hearsay. He asked that all proof, facts, i.e., what ever is necessary be available at that time. Items #1, 2, 6, 7, and 8 will be dealt with then.

As a point of reference, all invoices (that David is asking a waiver for) were for review of plans, the engineer reviewed the plans. Carol moved to continue this matter until the first meeting in January. Russ seconded. The vote was three in favor, with Daryl opposed. Motion carried.

Agenda Item #7: Sunrise Estates:

Justin has included information in the packet from the last meeting to finish up the investigation of the irrigation system. Justin and Ron flushed the system and found that they put in a lot of water, but did not get much water out. The output was ten gallons per minute at most. Then the issue arose, regarding speculation on who was to winterize, and if they did so. Justin did notice that the plans that the town was given do not represent what was built.

Joe Stewart was involved in the construction of the irrigation system. During construction, most of the system did not have bedding under the pipe. The size of pipe was not done to specs. The developer has the burden of proof that the system was installed correctly and that it works. The developer has always been ultimately responsible to the town for the finished product, even if they think they turned it over to the HOA.

It is speculative as to what they promised, no records were kept. Justin was told by the person who maintained the pumps in 2006 that it held air, which indicated no breaks. There is the possibility that one of builders broke the line and decided to cover it back up. Justin feels the developer didn't do what they were supposed to, but the town didn't do everything they were supposed to either. Justin said he does not intend to do any more work investigating the irrigation system.

Rick summarized, the system was not built as stipulated. The materials are not of the utmost quality. There are too many questions as to who may have broken it, in addition to the window of time when the Town was to have accepted it. The Town never accepted it. His thought is that staff should spend no more time investigating.

Discussion followed concerning the reduced water tap rates.

Dirk recounted, the Town did have them turn over their water rights to the ditch and go on town water.

Justin suggested they abandon the irrigation system. There is not enough proof one way or another to prove negligence.

Rick enforced, the Town should not try to fix the system. He suggested that the Town go to the developer for \$500 (or whatever it takes) per lot to get a tap to each house in order for them to use town water. Ron agreed, the entire irrigation system needs to go away. It was decided to pursue decommission of the system, negotiate a settlement to give the homeowners something to compensate them for what they didn't get, and give their water rights back.

The Board asked that the Executive Session be moved to after agenda item #11.

Agenda Item #9: Holidays Off:

Justin spoke to the existing personnel policy of giving employees a half day paid holiday on Christmas Eve and a half day on New Years Eve. This year the half day holiday falls on Monday, the holiday on Tuesday. It would be a small bonus to give employees a paid full day off on Christmas Eve and New Years Eve. If employees must work, they would get holiday pay. Rick agreed with putting this in the personnel policy, and asked that Justin have the proposed language ready for approval in January.

Carol moved to take staffs recommendation to give a paid eight hour Holiday day, this year only, for Christmas Eve and New Years Eve. Daryl seconded. The vote was four in favor, one abstention from the vote, Russ Jones.

Agenda Item # 10: Holiday Board Meetings:

Justin then mentioned the regularly scheduled Town Board meeting to be held on January 1, 2008. He felt that since the last meeting in December is December 18, it is far enough away from Christmas to go ahead and plan for it. However, he asked the Board if they wanted to postpone the meeting for January 1 or to cancel it altogether. They Board wants to cancel the January 1, 2008 meeting date. However, they are in agreement that they should still meet on December 18.

Agenda Item #11: New and Old Business:

Justin has received the final study that was completed by the college students regarding the need for a grocery store in Bayfield. They did a feasibility study based on detailed information gathered via surveys that asked what people would like to see. They also contacted some groceries stores to see what their input was. They received 232 responses, and only seven were negative.

City Market said they would not come to Bayfield because Durango poses too much competition. The students could not contact anyone from Safeway. The students recommend that Bayfield concentrate on going after an Albertson store. They suggested the town work on getting an economic incentive packet.

Russ asked about a board of appeals. Justin said that when Dan was ready to file his appeal, Justin will see that the Board gets formed. Variances can only be granted by the building inspector. The Board cannot grant variances.

Justin is to double check with Butch Knowlton to see who could be on the board.

Russ asked if the town could do anything more for Kerri Bayles. He pointed out that he is not in favor of getting an engineer to work on this.

Justin said that the Town needs to be sure that they understand the liability if they intend to work on the line. The main line is the Towns, the service line is theirs. Ron re-enforced that this problem was caused by whoever built the subdivision.

It would be a big mistake to take on the service line.

Robert Piccoli said the Sanitation District used to have a (sewer line) camera. Ron replied, 'it is toast'.

Daryl said 'have a camera man come out and check it'.

Russ concurred, saying 'figure out where he needs to work and see how much it will cost to get him to come'.

Justin said 'we will camera the line'.

Justin informed the Board that he has hired an intern for next year, a gentleman by the name of Jack McGroder, who will start work in January. They live in Heartwood.

Justin said that out of everyone that applied, he is the smartest and most capable. He will work directly with Justin and Joe doing economic development, long range planning, asset management, grant research and grant administration.

Versatility is the dominant theory for the new position in the Park Rec management position. They will be able to take care of Special events, customer service, park maintenance, they can do all the work. Scott wants to have a representative at all sports events, with three people on board, he can.

Daryl mentioned the drainage pond at Mesa. They are going to submit plans, they will have a low fill pipe, a high drainage pipe. He checked the pond, it, it looks good. He needs to do some final inspections on it.

Daryl cautioned, check the compaction tests.

Daryl wants to read the agreement made with Brad regarding the pump station. He also wants to review the elevation topo maps.

The Olde Fashioned Christmas is this Saturday.

The spring election will be April 1, 2008. Packets will be available for candidates February 11, 2008.

Carol moved to go into Executive Session, citing C. R. S. 24-6- 402 (4) (a), to discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest.

Russ seconded. The vote was four in favor. Motion carried.

The Board went into executive session.

The regular meeting reconvened at 9:40 p.m.

Daryl Yost moved to take no action on the property. Carol Blatnick seconded. The vote was four in favor. Motion carried.

The meeting adjourned at 9:45 p.m.