

**Town of Bayfield**  
**Regular Town Board Meeting**  
**11 W. Mill Street, Bayfield, Co 81122**  
**July 3, 2007**

**Town Board Present:** Rick Smith, Mayor Pro Tem, Russ Jones, Carol Blatnick, and Daryl Yost. The Mayor is excused for health reasons.

**Staff Present:** Justin Clifton, Town Manager, Pat Anselmo, Clerk, Joe Crain, Planner, and Dirk Nelson, Town attorney.

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

**Approval of Minutes: June 19, 2007:**

Daryl Yost moved to approve, as written, the minutes of the Regular Town Board Meeting held June 19, 2007. Carol seconded. The vote was three in favor. Motion carried.

**General Public Input:** Rick Smith opened the meeting for general public input at 7:04 p.m.

None was given. This portion of the meeting then closed.

**Agenda Item #1: Approval of Bills:**

Daryl moved to approve the payment of bills as presented. Carol seconded. The vote was four in favor, motion carried.

**Agenda Item #2: Planning Commission Update:**

Bob Piccoli reported there is no update.

**Agenda Item #3: Managers Updates:**

Justin informed the Board that he did not get the information concerning Sunrise into the packet. He is overseeing the geo- tech tests and soil stabilization process. The developer is taking the lead on reparation of the easement conflicts. They need to check the gas company's over-lapping easements.

They (Sunrise Developers) have not agreed to requests submitted to them by Justin. (these requests were included in tonight's packet).

Niel Hieb arrived 7:07 p.m.

No other questions or concerns were voiced regarding the remaining three update items listed on the agenda.

**Agenda Item #4: Fox Farm, Discussion of Deed Restrictions:**

Concerning the deed restrictions that were initially placed on the lots at Fox Farm, Joe and Justin have been in communication with the developers of Fox Farm. Jen Lopez was present. She mentioned there are other matters to resolve, Justin is looking for more evidence. He suggested there may be other ways to go about financing. The financing

entities that had been chosen to fund this project are demanding a bail-out clause to protect their interests in case of foreclosure. Connie Imig, representing Habitat for Humanity, Housing Inc., and Housing Solutions of the Southwest spoke. She reaffirmed that she does not represent CDC (Colorado Development Corporation). She has started partnering with these entities to implement changes in the deed restrictions. Habitat does not fall under the added restrictions.

She is asking the Board to consider a freeze on any increase in future impact fees and not to impose an increase in any tap fees.

She mentioned that the rates on sewer taps have gone up subsequent to the Fox Farm development process. Connie said they must maintain extremely tight controls to calculate very closely what the costs on the units are going to be. This is a major issue, (referring to a waiver), for lenders in case of foreclosures on the deed restricted properties. CHI is prepared to build on ten lots, but only if they can get funding through the USDA. USDA will not do the financing for properties with deed restrictions. Again, she asked 'please consider freezing any future fee increases'. The four entities are requesting a study session in concert to talk about these issues.

They would like a workshop with the Regional Housing Authority. Duane Dale, USDA Rural Development said they will offer 100% financing for people who fall within certain income brackets. USDA is o.k. with the current deed and plat restriction, unless it goes to foreclosure. The State Office of Rural Development said they would allow him to go ahead with current restrictions, if in the case they (CHI) become the owner of the property. They want a very narrow waiver which would only be applicable in case Rural Development becomes the owner.

Joe Crain explained that Colorado Housing Inc. has to start very soon. It was necessary for USDA to know tonight. They will be financing all ten of the units if the waiver is approved tonight. Justin reconfirmed to the Board that he is in accord with the waiver, but he wants it noted that this applies only in the case of foreclosure.

Rick mentioned it may be wise to set up a workshop to discuss the release of deed restrictions and freezing future increase of fees. Justin concurred. Niel asked why they didn't think if these things initially. Connie admitted that CDC did things a little bit backwards. They held their original negotiations with the Town, not knowing the repercussions that would be caused by placement of deed restrictions. It was lack of knowledge on their part. Daryl asked about the Skyridge situation, where the house was sold at material gain. Connie replied that this was done by CDC. Daryl is not in favor of the freeze. Everybody is in the same situation, they must share the costs. Connie was adamant that she must firm her costs as of today for what the lots are going to cost in the future. Daryl said that the town has gone out of their way to support affordable housing. Carol asked Connie 'what prices are you talking about now, for the homes in Fox Farm. She replied \$139,000 for roughly 1200 sq ft. Rick then suggested that the Board consider only the first option tonight.

Concerning the waiver, Dirk is not comfortable with the way this is worded. It suggests a narrow scope with the ones they have a problem with. The wording says 'all deed restrictions and plat restrictions will all be waived'. Keep in mind that there are other restrictions on the plat. Therefore, he is concerned about agreement to 'all deed restriction and plat restriction' being lifted. They (USDA) said if it goes to full

foreclosure, that is what they are asking. They also have concerns with the 50 years limitation.

Dirk reconfirmed that the language is too broad. Staff should work with Rural Housing to bring the verbiage into something that is acceptable to both parties.

Duane wants the deeds to be completely unencumbered. Justin confirmed he wants to work on it.

Dirk reiterated, once it is released, and the property is resold, all the restrictions are gone.

Daryl asked about the possibility of obtaining a second and third loan to prevent foreclosures. Connie replied that they have the 1<sup>st</sup> mortgage, a soft second, a \$10,000 portion from Colorado Division of Housing, and \$7000 from the federal government. Anyone coming in would be in fifth position. Dirk interjected 'the other lenders may come in for waivers...as drafted, this is too broad!'

Russ made a motion to approve release of deeded plat restrictions contingent upon staff putting together and looking at existing plat restrictions to see which ones would be appropriate. Carol seconded. During discussion, Niel mentioned that someone who makes more money than qualifies them now could possibly come back and buy this in the future. Russ amended his motion to say that staff needs to bring their determinations back to the board by the next meeting. Carol approved the amendment to the motion. Rick confirmed that Dirk will have the ability to review the language to make sure it is complete and accurate. The vote was four in favor. Motion carried.

#### **Agenda Item #5: Public Hearing/ Consideration: Town of Bayfield Land Use District Change:**

Rick addressed those who would be making comments, be brief, be concise; everyone gets one chance, unless they want to express their agreement with another who has spoken. They have 45 minutes. When the public comment portion is closed, the board will decide. He then asked interested parties to speak to the issue.

Justin gave an introductory explanation. He tailored his reply to address the instructions from the last meeting and issues relative to this location. He also looked at additional locations that may be considered.

1) Issue of safety: Justin researched the issues discussed at the last meeting. He does not think there is a significant safety concern.

He has included numbers in the packet that address the traffic generated by businesses. The data does not suggest there is a concern. He did a peak time traffic study at the water salesman, he said the maximum number was six. Turning radius is 84 foot, from side to side at the proposed site. Justin feels the new site is safer than the existing one.

2) Water pressure: this system will be choked down to a 1½ inch pipe. Both the engineer and the public works department head feel that replacing the PRV would provide sufficient pressure. Alternatives are included in packet. Some are not viable.

3) Locations: The Board could consider future property annexations. There is another access off of Highway 160B, and there may be other lots that will become available for purchase in the near future. There is a piece of property up by Dove Ranch, if the town could get four lots. Procuring an access from CDOT off of Hwy 501 may be highly tentative. The land would need rezoning. There are a lot of unknowns. The Board has asked if placing the water salesman at the joint facility might be possible. This property is owned by the town, the county and the school. It was suggested that the town get the

school district land in order to provide for a large enough turning radius. Justin asked the county to consider it again. (Twice before they were reluctant.) They may reconsider because the town is having such a difficult time finding the appropriate land. Maybe the town could partnership with the school district because they (the school district) own a lot of land.

4) Temporary site: The Board had asked Justin to do some research to see if this was a viable option. Justin remarked that the town can put something up temporarily; it would be beneficial because it could be readily available. Drainage needs to be considered. It is not recommended because it would cost money to set it up initially, then costs would be re-incurred when a final site is chosen.

Rick opened the meeting for public comment. Mike Clark, 24910 Highway 160, lives the other side of Yellow Jacket. He has a business in Bayfield. He said that although the current site is not great it is very much a necessity. He thinks making it a private enterprise may be good, especially since the town is thinking about turning it off. He has no alternative source that is workable for his business. He just does not want it shut down.

Mike Ballard, 68 Hillcrest at Fox Farm is O.K. with Justin's recommendations.

Steve Schmidt, also at Fox Farm, is concerned about the safety at the proposed site. There are three gas stations in the vicinity, and it is a bus route. He asked if these things were taken into consideration when the decisions were being made. Gas stations generate a lot more traffic.

Reuben Sanchez, Pine River Ranches, said he hopes they decide to keep it running. He hauls water twice a week. He asked 'Please keep it going. People who are at fixed income need it.'

Erick Nyland, Fox Fire Ranch, asked Justin if the salesman were safer when used by the larger trucks, or with smaller pickups. He feels there are a lot of smaller vehicles that use the site. A lot of people depend upon this service. Margaret, 368 Dana Lane, has been hauling water for 11 years. She has a very slow well, she hopes the town will keep this service going. If people have to go to another town to buy water, they will buy their gas and groceries there as well.

Dan Tucker, 835 Fox Fire, asked if the town knew just how many people in town use it. Rick responded 'we track the amount of gallons sold'. Joe Crain explained that the town sells roughly 600,000 gallons a month.

Rick then confirmed that the water salesman generates positive cash flow for the water fund.

Darla Butero, 548 Mountain View Drive, lives one house over from where the new location will be. They do not want the service to go away, they just feel strongly that this is a residential location. Many residents are fighting a business going in there. It will be run like a business, it will generate traffic like a business. They still feel it is a safety concern to anyone who uses Mountain View.

Kelly Thomas, Fox Fire Ranch, spoke. He reinforced that anyone who gets water does not want to get caught up in traffic. Those using the water salesman will come when school traffic is light, the heavier use is on weekends when schools are closed.

**Consideration:** 8:20 p.m.

The board has made a commitment to proceed with the new town hall. The current location will be demolished. Site work will happen mid August. The town does not want

water service to be interrupted, nor does it want construction of the town hall to be delayed.

Russ asked Justin if the entrance to the water salesman can be put in through Spruce Drive. Justin replied, absolutely.

Rick suggested perhaps they could design two lanes, one for large trucks, one for smaller vehicles. Justin was wary of this, saying that people may take advantage of the two lanes to enter through the exit road. Keeping one lane would ensure only one lane of traffic could be accommodated.

Daryl said that the Dove Ranch location is ideal from a water pressure stance. They have too much water pressure.

Niel emphasized 'the town does not have any idea of what this is going to cost. This board never intended to close the water salesman. But, if the board is going to spend \$300,000, they need to be sure that the new site is the best'.

Carol reminded the Board that Justin has run figures on the different sites. Justin explained that some of the sites are more expensive than others. Free land would reduce costs substantially. It is hard to anticipate the costs until you have a site in mind.

Niel met with the school superintendent and asked him if they would support having the water salesman at the joint facility property. Niel said that Mr. Magil told him that he would. The school board was to have an executive session that evening and they would entertain an option of selling some land to the town. Niel feels the town could get property for less, perhaps. He wants to explore this before making a decision.

Justin commented that the joint facility may be a better location, but getting the school, the county and the CDOT orchestrated to get this done in a timely fashion was questionable. Robert Butero commented that the access already exists.

Carol made a motion to move forward with the rezoning request from R 40 to Community Service for 579 East Spruce Drive. Russ seconded. The vote was four in favor, with Niel Hieb casting the opposing vote. Motion carried.

Staff is to bring this back to the next meeting. And, at a later date, work on the hours of operation and landscaping. Justin will try to get this by the next meeting. Please pursue the Spruce Drive access.

**Agenda Item #6: Resolution – Purchase of Property:**

Dirk drafted the contract. Water rights are involved and would have to be transferred to the town. Dirk reconfirmed that there will be an easement to the far east side of the lot to provide access for water.

When questioned, Dirk replied that the Board can do this resolution in open session.

It concerns Lot 13 A of the Mountain View Subdivision, Routledge property.

Daryl moved to adopt Resolution 209, a resolution of the Town of Bayfield, Colorado authorizing the Purchase of Certain Real Property Commonly Known as Lot 13 A, Routledge Boundary Adjustment Plat, Bayfield, Colorado, and Authorization Officers of The Town To Execute Appropriate Documents To Complete The Purchase. Carol seconded. Justin is authorized to sign the documents, according to Dirk. The vote was four in favor, with Niel casting an opposition vote. Motion carried.

**Agenda Item # 7: Sanitation District:** Justin gave his usual report. At the last meeting, the Sanitation Board took action to move forward on purchasing the SBR. The

estimate is included in tonight's packet. This plant is as good as any other in the state according to Justin.

Pagosa Springs is building a SBR. Justin included the pros and cons. The SBR costs less initially, but it has higher operating costs. It requires a slightly larger footprint. It can handle anything, including future standards that might come from the state or the tribe. It is not the best, but it is very good.

Justin is in full support of the SBR. He is asking the Town Board to approve this action. Carol questioned if the Sanitation Board agrees. Justin replied, 'yes, unanimously'.

Daryl Yost left at 8:55.

Carol moved to approve the purchase of the SBR (Sequencing Batch Reactor). Russ seconded. The vote was four in favor. Motion carried.

Justin commented that the Sanitation Board should have been up on this several years ago. The documentation samples were manipulated, (bunk), they were quite deceptive. If through experience you learn to take samples at different times to give you the desired results, you can basically skew the test results to give you the numbers that you want. He then added, there is a Sanitation Board vacancy, do you want to transition in a town board member? The town would then have a vote.

Justin wants to schedule a joint worksession with the Sanitation District and Town Board, preferably sooner than later.

He will poll the missing board members to determine a workable date.

The costs of pre-treatment is vital, there are numerous criteria in the formula. It needs to be formulated on 'What is reasonable'.

Rick reinforced, 'we can't kill business, i.e., tax base'.

The State has said 'you will institute the necessary changes!'

Rick then asked that Justin please check with Rick Johnson from the tribe. Justin replied he has already spoken to him.

Niel commented, 'you need to keep future needs in mind'.

Russ asked about scheduling Thursday, July 12 at 7 p.m. to meet with the Sanitation Board. Justin will check with Tom Au to see if he can meet then.

Justin is looking at grant opportunities. A CDBG grant would work for Steamworks, but it would have to be requested by the town. Justin asked if the Board wants him to move forward with grant options. Rick remarked 'definitely'. Russ cautioned that the town needs to keep other businesses in mind and try to be fair.

The Board then gave nodding heads, 'go forward with pursuing grants, with caution'.

Dirk spoke concerning a meeting to be held on July 18 to discuss the dissolution of the Sanitation District. The Town will have to hold a hearing for out- of- town users. The Town board needs to be involved. It will be at the library.

Russ wants more information on possible concerns and issues before then.

#### **Agenda Item # 8: New/ Unfinished Business:**

Niel said there is a definite safety issue on Meadow Circle. He asked that this be put on the agenda for August or September.

Carol Blatnick again reminded the Board the median on Highway 160 is not being taken care of. It is weeds and trash, she asked 'what can be done?'

Russ let the town manager know that street lights on the north end of Cedar/Oak and those that are north of the football field on Wilmer are on constantly.

Carol noticed that the wading pool at the river in Eagle Park is not functioning. Justin suggested that the Town Board consider using Saturdays for workshops. It is going to be heavy scheduling for the next few months.

Russ commented, add infrastructure standards to stuff to be discussed.

The County submitted paperwork for a water district that would cover 400 square miles, which will be an \$85 million dollar project. They gave the Town a turn around response period of 10 days. That is totally unacceptable. Justin was justifiably concerned; a proposal this significant can not be turned around in ten days. He drafted a response letter today saying it should be extended at least 60 days.

The Board authorized the response letter and asked that it be put in the mail tomorrow. They voiced concern about submitting comments without approaching both the Planning Commission and Town Board. This district would cover 25% of the county. Joe Crain said he does not believe the Board of County Commissioners is aware of this communication. He thinks this came from the planning office.

Regarding the Fourth of July: Justin remarked 'If you are going to be on a float, be there early (9 or 9:15).

Justin has not yet sent the letter to Jack Lewellan, but he gave it to the board this evening. He requested that they please sign the letter tonight.

Motion to adjourn 9:45 p.m.

Approved as corrected, August 7, 2007