

**Town of Bayfield
Regular Board Meeting
11 W. Mill Street Bayfield, Colorado**

May 20, 2008

Town Board Present: Russ Jones, Justin Talbot, Mayor Rick Smith, Tom Au, Robert Piccoli, and Dan Ford. Debbie Renfro was invited to participate in the interviews for Municipal judge.

Special Board Meeting: Russ made a motion to go into Executive Session, citing C. R. S. Section 24-6-402- (2) (f), for discussion of a personnel matter. Pat Anselmo, Town Clerk, Municipal Court Clerk, was invited to participate. Justin Talbot seconded. The vote was six in favor. Motion carried. The Board moved into executive session.

The Board called the session for the purpose of interviewing the two candidates for municipal judge.

Julie Holligan Westendorff was scheduled for 5 p.m. Bill Anderson was scheduled for 5:45 p.m.

Debby was invited to be in the audience to take part in the interviews. The Board felt her participation would allow her to make a more informed decision in her choice of the municipal judge.

The first interview started at 5:05 p.m. It concluded at 5:45 p.m.

Bill Anderson arrived at 5:45 p.m., at which time his interview started.

Bob Piccoli made a motion to adjourn from executive session. Tom Au seconded. The vote was six in favor, unanimous.

A recess was called at 6:45 p.m.

Regular Board Meeting:

Town Board Present: Russ Jones, Justin Talbot, Mayor Rick Smith, Tom Au, Bob Piccoli and Dan Ford.

Staff Present: Justin Clifton, Town Manager, Pat Anselmo, Town Clerk, Joe Crain, Planner, Dirk Nelson, attorney, and Jack McGroder, management intern.

Media: Carole McWilliams, Pine River Times

The Planning Commission was not represented.

The Mayor called the meeting to order at 7:02.

Approval of Minutes: Tom moved to approve the minutes of May 6, 2008 as corrected. Justin T. seconded. The vote was six in favor. Motion carried unanimously.

General Public Input: The Mayor opened the meeting for public input. None was received. This portion of the meeting closed.

Action Agenda Item #1: Approval of Bills: After a short question and answer period, Dan Ford moved to approve the payment of bills as presented. Tom Au seconded. The vote was six in favor. Motion carried unanimously.

Expense Approval Form: Justin commented that it has been difficult to anticipate some of the additional expenses the Town has incurred, such as the need to purchase a permit from the State for additional loading (for the sewer treatment facility). Justin asked if the Board wanted the 'expense approval form' that reflects any use of the contingency line items, line item overruns, etc. to come before the board for approval, or if they would prefer to approve the items on this form as part of the payment approval process. Rick paraphrased, do you want them considered separately or as part of the normal payment approval process. Russ suggested they run them through as part of the bills. The Board concurred.

Action Agenda Item #2: Swearing In of New Town Board Member:

Debbi Renfro was appointed to fill the vacancy on the Town Board during the last town board meeting, May 6. She was asked to approach the dais, at which point Mayor Rick Smith administered the oath of office to her. Carole McWilliams, from Pine River Times took a picture as the new trustee was being sworn in. Debbi then took her place on the dais.

Action Agenda Item #3: Town Updates:

Rick asked if the Board had any questions. Bob Piccoli asked about the progress in getting the grant from the Coors Foundation for the senior center. Justin replied that he has not heard back from them. But, he feels the Town has a pretty good chance of getting funding from them.

Dan asked if Justin had additional comments for the board concerning the status of the sanitation project. He queried, 'don't we have to have it signed by the end of the month?' Justin said they have had a delay in getting documents ready to sign. He added, 'the first of June they will give us a contract to sign, then we can close on the property. We will not award it until mid June. The consultant was provided by Region 9, this caused a snag in the timing'. Dan asked 'is this the grant that has to be signed by May 31?' Justin replied 'no, we can't sign the contract because of the grant funding. Our compliance schedule needs to be revised significantly. The bids will be open on May 28. The contractor can begin making preparations at that time.'

Justin T. asked 'does the State understand the lag this causes?' Justin said, 'well, yes and no. This is a six million dollar project, it is sort of a catch twenty two, the grant is dependant on the contract, the contract is dependant upon having the grant awarded'.

Justin has revised the compliance schedule several times. It will take 244 days to build. 'We have to delay the contract because of a hang up on the grant. The question is how long will it take to build it, and when will it be operational'. Justin said he anticipates the plant will be operational within twelve months, i.e., June of 2009.

Justin Talbot moved to modify the agenda to have a discussion on Dove Ranch, discussing it after Item 6, in other words Item 6 A. Tom Au seconded, the vote was seven in favor, unanimous.

Action Agenda Item # 4: Municipal Judge Appointment:

Two candidates had submitted applications for the position of Bayfield Municipal Judge. Both were interviewed earlier this evening. The Board is making the appointment based on the interview process. Russ Jones moved to appoint Julie Holligan Westendorff as Bayfield Municipal Judge. Dan Ford seconded. The vote was seven in favor, unanimous.

Action Agenda Item # 5: Road Runner Transit:

This item was delayed. Mr. Tregillus was not yet present.

Action Agenda Item # 6: Extension of Final Plat Validity/ the Highlands Subdivision:

A request for an extension of the deadline for final plat for the Highlands Subdivision has been submitted by Jim Flint and Jack Roe. Joe Crain advised the Board that the current deadline is midnight tonight. They are asking for a 180 day extension, which would move the deadline forward to November 20, 2008. Dan asked that he be allowed to abstain from comment and vote because he has a direct financial interest in the property.

Jim Flint was given the floor to explain their cause. He commented ‘this project has a very complicated drainage plan. It must come full circle, because of the number of property owners that will be affected. The project has both an east side and a west side. Consequently there are nine people involved. The most controversial component has to do with the retention pond. It involves two property owners.

Russ Jones moved to extend the validity of the final plat for The Highlands Subdivision for 180 days. This will extend it to November 20, 2008. Tom Au seconded. The vote was six in favor, with Dan Ford abstaining from the vote.

Action Agenda Item # 5: Road Runner Transit:

Peter Tregillus, programs Developer, SUCAP gave a short presentation. In order for them to qualify for federal funding, they must supply matching funds. They need to know if the communities can help them (Road Runner Transit) match the funds before they ask for federal funding. He wanted to get their request in well before the Towns budget cycle. His paperwork also has to go through CDOT approval. The plan lays out connector routes. They have increased costs, with fuel prices being a major contributor. They anticipate instituting additional fares. They are going to set up bus stops, dedicated exclusively to Road Runner. They plan to do more advertising and upgrade scheduling. Bayfield supports the Bayfield route and the Forest Lakes route.

They anticipate going after Colorado Senate Bill #1 Funds. Buses usually have a life span of 60,000 miles. Road Runner is asking for approval of the current budget from Bayfield in the amount of \$38,000 plus an additional \$2,000 more. Peter said the Board would basically be approving the core program with the additional \$2000.

(They estimate \$2,113.00 will be the actual share amount needed). When questioned, Peter responded that they have not approached the Growth Fund for financial assistance, saying ‘they have not tapped the Growth Fund, but they should!’

The process tonight is not a binding contract on the town, but it is a promissory note of sorts. (The amount they are asking to be ‘promised’ is for the 2009 budget.)

Justin will bring their request to the retreat. The Town funded \$36,000 last year. Peter is asking for letter from the Town indicating their intention to provide funding, and that the Town is in favor of Road Runners application to the State for Senate bill #1 funds. SUCAP needs the letter of intent from the Town in order for them to make their submittal to CDOT.

Basically, Peter said, he is asking for \$1000 more from the Town than he asked for last year. The \$2113 is for seeking additional funding through Senate Bill 1.

Bayfield's budget reflects \$38,000 for 2008. Tom Au moved to approve a letter of commitment to SUCAP, reflecting the Towns intent to contribute \$39,000 for the transit plan for the budget year 2009, for their negotiations with CDOT. Bob Piccoli seconded. The vote was seven in favor, unanimous.

Russ moved to add it (transit plan, Senate Bill #1) to the retreat schedule. Tom seconded. The vote was seven in favor, unanimous.

Action Agenda Item # 6 A: Discussion of Dove Ranch Request:

Brad had asked to get this item on tonight's agenda. However, Justin didn't get it on time. Brad is asking the town to approve a partial release on the LOC tagged to the warranty period. Brad said 'it has been a practice to do so, it may have been done so for a long time past'. It has been changed, more recently by breaking it (the warranty period and percentage of LOC) down into reasonable blocks.

Justin commented that the Town recently realized that the LOC (Brads) was nearing expiration. The Town thought everything was finished. Justin had an agreement with Brad that if he (Brad) extended the letter of credit, Justin would issue a partial release on the warranty. The LOC was not renewed.

There are many areas that still need to be addressed. The LOC was not in place for six weeks, and there was not much effort on Brad's part to get the LOC back in place. The original LOC was to expire May 13. The LOC needs to be extended. It would be better to leave the road work for a while, until frost heaves are not an issue and to give it some time to see if any more segments of the road will need to be replaced. Drainage may be a contributing factor to the asphalt disintegration. Justin said he will not give any more partial releases, 'I will never issue a partial warranty release ever again without boards approval.'

The LOC that expired on May 13 has not been extended. Justin was adamant, saying that letting the letter of credit expire was a default of the conditions stipulated in the SIA.

These conditions were also those under which the release is being requested.

Justin commented that if the Board wants to adopt a policy to make partial warranty releases, it needs to be well documented and well thought out.

Brad replied that the concrete and asphalt were the only items covered by the LOC. They made the fixes (sic) when the snow had receded enough to allow them to do so. He said it would be very difficult now, financially speaking, for him to cough up the money for a Letter of Credit. Because of the local market and the national economy he needs every penny he can set apart just to continue operating. He added 'the Town needs a LOC to cover warranty work on the asphalt and the storm sewer line drainage.

Justin replied, the Town holds 20% of the entire surety for all infrastructures. Because of Brad's reluctance to keep the existing LOC in place, Justin does not want to acquiesce

on this issue. The \$80,000 LOC was not kept in place as promised. The SIA explicitly states that the warranty starts when the infrastructure is completed. The Town has been burned in the past and for this very reason the contract was written the way it was. It was very difficult to determine which warranty starts when, if you allow piecemealing of the projects. The warranty period starts when *everything* is accepted by the Town, according to Dirk. The inspection at the Dove Ranch subdivision could not be done by the Town because of the snow. Justin is very cautious about doing partial releases. Brad said he asked twice to get the inspections done. The Town didn't respond. Rick cautioned that *no* response from Brad was in itself a response, saying that he didn't intend to comply. Debbie Renfro recused herself, saying she has a financial interest in this matter.

Rick said that it is inappropriate to make a policy currently to deal with the problem at hand. 'If the Town were to do anything that is outside the current SIA, would we not be setting a precedent to change all SIAs?' Dirk confirmed, 'you would set a precedent if you decide to change the conditions of the SIA'.

Rick feels that Brad is intermingling two issues. He should have made sure the LOC remained intact. He should have come to the Board before the LOC expired. The current situation now casts a different shadow, making things appear differently. 'Is Brad playing games, is this a power play? If it was the money, Brad should have come to the Board at the last meeting'. It is evident that Brad is asking the Board to reduce the amount of money required of him after he failed to comply with the initial agreement.

Russ voiced concern, 'this process is broken. Why was the LOC allowed to expire? And what is the policy on reducing warranty amounts? Was it the Town's fault that the process was broken?'

Russ continued, 'Brad promised a park three years ago. The board acted in good faith to extend his plat several times over. Russ does not feel Brad came through on his part of the agreement.

Dan moved to propose that the Board ask Brad to put an LOC in place for \$80,000. And, allow the town manager to release whatever he feels is adequate. Russ seconded.

During discussion, Brad said he had intended to fix the road by or before the end of this month. Justin T. asked if the problem was just the asphalt. Justin C. said there are 12 or 13 items that need to be fixed. Justin said he would be very conservative in his estimates from this point on. He affirmed, 'it will be a dollar amount, not a percentage'.

Rick asked that this matter be placed on a June agenda in order for the Board to discuss how they are going to handle this in the future.

Rick admonished, he never wants to come to this juncture again. 'No LOC expiring!! It will be the developer's responsibility to keep those letters of credit in place'. He stressed 'I will be very difficult to deal with if there is a second occurrence!'

The Board asked that the motion be amended to read '\$80,000 (or the original value of the LOC which was approximately \$80,000) and allow Justin and staff to work with Brad to reduce the amount to whatever is comfortable'. The vote on the amended motion was six in favor, one abstention (Debbi Renfro).

Debbi returned to the dais.

Action Agenda Item #7: Change of Conditions/ Elston Subdivision:

Joe Crain explained that the area being considered this evening is located just north of the storage units on C. R. 501. They are requesting a change of conditions. For the convenience of the new Board members, Joe included his staff recommendations from the January 11 Planning Commission packet which listed eight conditions. Mr. Leming is requesting that the board allow him to modify approval conditions 3 and 4.

The changes requested are as follows:

Item #3: *....and that the on-site parking lot paving for lots 2 and 3 be delayed for improvements and bonding until Building Permits for lots 2 and 3 are issued. That no CO (certificate of occupancy) be issued for structures in lots 2 and 3 until the paving and turn lane are complete.*

Item #4: *That La Plata County requires the developer to bond for and to construct a left turn lane on CR 501 upon the issuance of Building Permits for Lots 2 and 3 and that no CO will be issued for structures on lots 2 and 3 until the turn lane is completed.*

Joe made the comment 'since the parking lot is not coming to town, it will remain private'. He feels comfortable with this request. Likewise, on the second (Item #4) condition, the left turn lane is a county concern.

However, once the plat is filed and water and sewer are in place, there will be soil disturbance. They will need to plan for and implement erosion control.

Staff recommends that the Board approves the changes to conditions 3 and 4 with the condition that the developer employ all necessary erosion control measures including re-seeding if deemed necessary by the Town Engineer. Dan asked to abstain from deciding the issue.

Jim Flint spoke for a short time. He explained that commercial development is difficult to develop until the tenant moves in. County Road 501 is a judgment call by La Plata County. Nothing will be developed until the water and sewer is in. Until the improvements (infrastructure) are in, there will be no traffic. Joe is going to require that a plat note be placed for future reference, to indicate that any buyer would be required to do paving on the parking area prior to issuance of a CO.

Joe wants to be sure that plat notes are added, it has not been recorded yet.

Justin T. moved to approve the two changes as presented in the memo of May 16, contingent upon meeting the condition noted and the presence of a plat note. Tom Au seconded. The vote was six in favor, one abstention, Dan Ford. Motion carried.

Action Agenda Item #8: Sewer Plant Access: Wiebe, Candalaria, LPEA documents:

This segment lists the steps necessary to acquire the access road to the new sewer plant, the access is absolutely necessary. There is currently a temporary agreement on the easement being utilized. The changes presented will make the owners lots more attractive, and the owners will receive \$10,000 each. The owner gets more property, usability, and cash payment. They also gain some front yard footage.

Dirk said the school board has agreed to provide an easement. The contract is not signed, but is on the horizon. This solution will do away with the necessity of asking the tribe to convey property. Once all documents are signed and the land is acquired, the town will not have to use the south access at all. The south access is problematic, there are several gates that must be opened, private property that must be crossed, and the road is unstable,

unable to accommodate heavy construction traffic that will be traversing the road to get to the sewer facility.

Ordinance #336: Tom Au moved to approve Ordinance #336, an Ordinance of the town of Bayfield, Colorado, vacating portions of the Right of Way for S. East Street. Russ seconded. The vote was seven in favor, motion carried.

Resolution #219: Tom Au moved to approve Resolution #219, a resolution of the Town of Bayfield, Colorado authorizing the purchase and conveyance of certain real property to complete a Right of Way on Lot 1, Pritchard subdivision, Bayfield, Colorado, and authorizing officers of the Town to execute appropriate documents to complete the purchase and conveyance. Russ seconded. The vote was seven in favor. Motion carried.

Ordinance #337: Tom Au moved to approve Ordinance #337, an Ordinance of the Town of Bayfield, Colorado, vacating portions of the Right of Way for East Street. Russ seconded. The vote was seven in favor. Motion carried.

Resolution #220: Tom Au moved to approve Resolution #220, a Resolution of The Town of Bayfield, Colorado, authorizing the purchase of certain real property for a Right of Way on Lot 3, Casa Grande Subdivision, Bayfield, Colorado, and authorizing officers if the Town to execute appropriate documents to complete the purchase. Russ seconded. The vote was seven in favor. Motion carried.

Final Plat Approval: Tom Au moved to approve the East Street final boundary adjustment plat. Russ seconded. The vote was seven in favor. Motion carried.

La Plata Electric Agreements: In order to proceed, the Town needs three phase electric upgrade. It will have to come across the river from the west. Justin has been negotiating to finalize all details. The condition stipulated by Mr. Jenkins says he is not necessarily against letting it happen, but he does not want it to cost him anything nor does he want his property to change. He sat in the negotiations with all the parties involved, a draft agreement has been drawn up which reflects some changes from the original verbal agreement.

Justin negotiated an agreement between the Town and LPEA. The town will cover the costs.

Dirk directed the Boards attention to Term #4. The town agrees to pay LPEA for accommodating Mr. Jenkins. The day the easement agreement is signed, the Town will ask for service from LPEA to the sewer facility plant. 'We cannot use temporary power for construction of the sewer plant'.

Russ moved to approve the agreement with LPEA regarding Jenkins property. Tom Au seconded. The vote was seven in favor. Motion carried.

Russ moved to approve the Electricity Easement Supplemental agreement with Mr. Jenkins. Tom Au seconded. The vote was seven in favor. Motion carried.

Action Agenda Item # 9: CDBG: Mayor Signing Authority:

Justin said 'this is a quirk. In order for us to spend their money, they require something in the minutes that reflects that the Mayor is authorized to sign documents on behalf of the Town. Tom so moved. Russ seconded. The vote was seven in favor. Motion carried.

Action Agenda Item # 10: Special Events Liquor License:

The Bayfield Area Chamber of Commerce has applied for a special events permit to have a beer garden during the July Fourth festivities. In order for that to happen, the Board

needs to schedule a public hearing. The Chamber has requested the use of Joe Stephenson Park for their beer garden. Justin wanted to be sure the Board feels comfortable with granting this request. They (the Chamber) must carry insurance and carry town as additional insured. They have also agreed to meet any requirements placed by the Bayfield Town marshal. The Board voiced their approval of letting them use the park for the Fourth.

Pat is asking that the Board schedule an agenda item for a public hearing on June 3 to make a determination on granting a Special Events Permit to the Bayfield Area Chamber of Commerce for July 4. Russ so moved. Tom seconded. The vote was seven in favor. Motion carried.

Action Agenda Item # 11: New/ Unfinished Business:

Justin informed the Board that Edgar Ortiz, dba Chavolos, 637 Colorado Drive, Bayfield, Colorado, is occupying a building that is not in compliance with the building Code. Technically, the owner of the building is responsible for meeting requirements, not the lessee. However, the town can red tag the business until the Building Code is complied with. (Chavolos is in process of obtaining a new liquor license, this process requires passing the building inspection. Just an FYI.)

Justin needs for the board to e mail in their choice of meals that will be available at the Strater.

Justin asked if the Board wants to set a policy for vendors that want to sell goods at Roadside. The Board said, 'Yes, we need a policy'.

Justin said that all the sewer back up problems have been dealt with.

Rick said he would be out of town on July 1. The Mayor Pro Tem will be called on to officiate during the first meeting of July. Tom said he would be here and can run the meeting.

Rick does not want to ride in a dumptruck in the Fourth of July parade.

Justin will try to get all the loose ends tied up sometime next week for the retreat.

Motion to adjourn.

9:30 p.m.
