

**Town of Bayfield
Regular Board Meeting
1199 W. Hwy 160 B.
Bayfield, Colorado 81122**

July 7, 2009 7 P.M.

Town Board Present:

Mayor Rick Smith, Brett Clough, Justin Talbot, Debbi Renfro, Tom Au, Robert Piccoli, and Dan Ford.

Staff Present:

Justin Clifton, Town Manager, Joe Crain, Planner, Dirk Nelson, Attorney, and Pat Anselmo, Town Clerk.

Media: Carole McWilliams, Pine River Times

Mayor Smith called the meeting to order at 7:05 p.m.

Approval of Minutes:

Dan Ford moved to approve the minutes of the regular Board meeting held June 16, 2009 as written. Tom Au seconded. The vote was 7 in favor, motion carried.

General Public Input:

Carole McWilliams said she wanted to thank each and everyone who helped with the Fourth of July celebration. 'There was a lot of work put into it, we appreciate it!'

Action Agenda Item #1: Approval of Bills:

Bob Piccoli asked regarding the Cultural Resources invoice, 'has he actually done everything he has billed for?' Justin C. replied that he had. Bob wanted to make sure he had done the work before this invoice was paid.

Justin T. had a question on the charges for snow removal damage repair. Justin C said the cost included work on several properties.

Tom Au moved to approve payment of bills included in the packet, and those additional bills submitted via e mail last Friday. Dan Ford seconded. The vote was 7 in favor, motion carried.

Action Agenda Item # 2: Town Updates:

Dan Ford questioned, 'just for clarification, the Town is not taking over 160 B?' Justin C. replied 'that is correct'.

Justin T. asked if Justin C. has heard anything from DOLA on the Gem Village lift station. Justin C. said it is basically a 'done deal'. He continued, '...(applying for) stimulus monies would have been tedious. This way it will go much more smoothly'. Brett Clough asked about the parking situation at the sports park, wanting to know if any action is planned for clearing up the bottleneck caused by the dirt piles. 'Has anything been done?' Justin C. said this has not been much of an issue lately. He has followed up with Trudy Kremer. They (the Rodeo Arena Association) are putting up directional signs, etc. when multiple events take place concurrently.

Brett Clough asked, 'when will you realistically move the dirt? Is it to be used to fill in the existing sewer lagoons?' Justin C. answered in the affirmative, 'yes, we plan to use this dirt when we fill the lagoons'. Justin C. added, he would like to close the new sewer work first, tie down the costs etc. before he considers moving the dirt. He wants to be sure about the numbers before incurring additional costs. Brett Clough stressed he would like the dirt moved before next spring.

Action Agenda Item # 3: Public Hearing/ Consideration- New Hotel Restaurant Liquor License Back Porch BBQ, 480 Wolverine Drive, Suite #1, Bayfield, Colorado:

Vicki Mullins and Michael De Young dba Back Porch BBQ Inc. have submitted an application for a new liquor license for their establishment. All necessary paperwork, including payment, was received and in order. The Board approved the preliminary application (they requested a concurrent review) on June 2, 2009. The documents were forwarded to the State of Colorado Department of Revenue on June 3, 2009. The Mayor asked the applicants if they had any comments. Mike replied that they were working very diligently in order to open as soon as possible. The Mayor opened the meeting for the Public Hearing on this particular Liquor License request at 7:18 P.M. No comments were received. At this point, the Mayor closed the Public Hearing and went on to consideration by the Board.

Brett Clough moved to approve the application for a new Hotel Restaurant Liquor License for Back Porch BBQ Inc., located at 480 Wolverine Drive, Suite # 1, Bayfield Colorado. Tom Au seconded. The vote was 7 in favor. Motion carried.

Action Agenda Item # 4: Annual Liquor License Renewal for Tequilas Family Restaurant located at 14/16 Mill Street, Bayfield, Colorado:

Tom Au moved to approve the annual liquor license renewal for Tequilas Family Restaurant located at 14/16 Mill Street, Bayfield, Colorado. Brett Clough seconded. The vote was 7 in favor. Motion carried.

Action Agenda Item # 5: Mesa Meadows Lot Adjustment Question:

Justin C. commented that Jim Flint has not arrived yet. He asked that this agenda item be moved to a later time this evening. It was decided to discuss Item # 7.

Action Agenda Item # 7: Discussion/ Consideration of Financial Matter Regarding RFP Proposals from Banks:

Justin C. commented that the banking institutions were given until June 19, 2009 to respond to the RFPs. The information received was included in this packet. Staff is asking the Board to take formal action this evening, giving direction as to what they would like to do. Dan Ford recused himself, stepping down from the dais.

Bob Piccoli brought attention to the comment submitted by Pine River Valley Bank which said they are recommending that ‘if there was not a substantial reason to switch the operations (pooled) account to another bank, don’t move it.’ Justin C. agreed, saying he would not recommend changing (banks) often, and he also recommends leaving the operations account where it is for the time being. The Town typically purchases Certificates of Deposit for twelve months. ‘We need to have high liquidity’.

Rick Smith said he felt it is wise to keep monies local, it is good for the Towns economy. He is in favor of purchasing Certificates of Deposit from the local banks, local meaning Bayfield. Justin C. responded with ‘that makes a lot of sense’.

Justin C. stated, for clarification, ‘ColoTrust is non-profit’. He asked for further direction.

Bob Piccoli asked, ‘if you are a local banker, what controls the CD interest rates?’ Dan Ford said ‘banks have to be competitive with the business people across the street. ColoTrust looks at the U.S. Treasury rates’.

Justin C. cautioned that the Town needs to be sure it doesn’t lock money into a CD if those monies will be needed in the near future.

Justin T. wants to put the Towns money in a local bank. Justin C., ‘we would need to be sure that we have all the flexibility we need’. The Board instructed staff to move the majority of (monetary) assets that will not be needed in the next few months, to local banks, placing them in Certificates of Deposit to gain the highest rate of return.

Tom Au made a motion to move a majority of the Towns money from ColoTrust to Pine River Valley Bank and to keep the operating account at First National Bank here in Bayfield. Debbi Renfro seconded. The vote was 6 in favor. Motion carried.

Dan took his seat at the dais, and rejoined the Board at this time.

Action Agenda Item # 5: Mesa Meadows Lot Adjustment Question:

When surveying the plat for Mesa Meadows, the southern boundary of the subdivision was placed south of the wire fence that separates the subdivision property from the property owned by Gerald and Phyllis Ludwig. The Ludwigs stand firm in their claim that the fence line was and is the property line. In order to avoid litigation, the parties have agreed to place the southern boundary of Phase 4 at the original fence line between the two properties. However, in order to have the property line reflected on the plats at the County Court House, a correction plat is needed.

Staff recommends that the Correction Plat for Mesa Meadows, Phase 4 be approved for recordation. Staff also advised that the pedestrian trail be shown on the plat.

It was in the original subdivision plans. Joe Crain stressed ‘the pedestrian easements need to be shown on the plat’.

Jim Flint has indicated that all lots are 10,000 square feet or larger.

Jim did confirm that the pedestrian path was in the initial plans for this subdivision. It is also reflected in the original minutes, approvals etc. There is a fence located on an easement (on Louisiana). Jim Flint was given the floor. He remarked that the main intent this evening is to bring everyone together in a mutual agreement under amiable circumstances. He stated that the developers intent was to move the easement, vacate the current easement, and re-dedicate a new easement. The first phase shows the trail easement. He added 'We definitely want to accommodate staffs recommendation. The Town owns fifteen foot areas for separate parcels in fee simple. Those are separate dedications. He shifted those 'about two feet'. He thought it was 'no big deal'. However it needs to be cleaned up .He asked if the Board wants these areas to be dedicated to the Town or to the HOA. The Board directed that the property goes to the Town. Rick instructed Jim, go through your plats and see what the original documents indicate. That is what it should be. Jim responded that he will include the pedestrian trail and the utilities easement on the corrected plat. Rick cautioned, the developer needs to provide availability to the owner (Mr. Ludwig) of the ditch in order for him to go in and check his ditch when necessary. Jim responded 'calling it a public utilities easement would include the ditch work availability'. Tom Au said he wants to see Gerald Ludwigs name listed, because he is not a public entity. Dirk commented that they need to add a signature line for the HOA. They would need to sign anything that transfers easements or relocates them. A lengthy discussion followed. Jim said any shifting would be in the side yard set backs. Debbi Renfro said Gerald Ludwig is correct, that fence has been there a long time. Rick cautioned Jim Flint, concerning submittals of information, 'if information isn't complete, it will returned until it is complete. This information is not complete'. Jim Flint countered with 'this was not a late submittal'. Justin T. expressed his concern about utilities connections if the lots are shifted. Robert Piccoli said the Board needs to see a more complete submittal. He doesn't think the Board is ready to make a motion because of incomplete material. Brett Clough says it (the submittal information) needs to be 100% correct. He told Jim to take the conditions, go back, finish it, then bring it back. 'We need to get it right before a determination is made'. Rick said he would not ask for a motion to approve the plat correction because the material is not complete. Dirk suggested the Board make motion to continue this to the next meeting. Justin C. said 'we need to look at curb stops. It needs to be verified'. Robert Piccoli made a motion to continue discussion of the Mesa Meadows Lot Adjustment to the next Board meeting, in order to allow developers to prepare the proper plat, check utilities easements, and lot line adjustments. Debbi Renfro seconded. Justin C. added a final comment, any variance would need to go to the Planning Commission. Rick instructed staff to work with Jim Flint. Justin C. said he may be able to do an administrative variance if the Board so chooses. Dirk interjected, 'the only thing you can vote on is the plat that you have'. Jim Flint asked the Board 'if you have a preference, please let him know'. He does not want to go against the Boards wishes. The vote was seven in favor. Motion carried.

This agenda item has been re-scheduled to the second meeting in July, which will be July 21.

Action Agenda Item # 6: Sunrise (Possible Executive Session C. R. S. Section 24-6-40-2 (4) (e):

The Mayor requested that subsection (e) above be changed to (b). He gave Sunrise residents, representatives, and their attorney 15 to 20 minutes to present their stance on the situation. He stipulated, 'the Board will listen; however, there will be no discussion. After the allotted time, the Board will go into Executive Session. Jeff Robbins, attorney, addressed the Board, acting on behalf of Sunrise Estates residents. He re-enforced that these people are the Town of Bayfield constituents. There are numerous land owners involved. It is a real mess. He conceded, the Board did not create the mess, neither did the owners or the staff. They want to reach consensus, the sooner the better. He has been dealing with Dirk Nelson and Justin C. They are in the process of getting some reciprocal easements that would solve the problem. He presented a handout that articulates the issues at hand. Regarding drainage, the effected properties agree to a swale on the back of their lots. They are going to give up on the piped ditch option. The developer led many home owners to believe that they would get a piped ditch. There remains one issue unsolved, generated specifically on lots 13 and 14. Goff (Engineering) has relayed that the drainage feature as constructed will not accommodate the drainage water. Initially, when plans were submitted by the developer, each lot was to be irrigated. The homeowners bought into this. The Town approved the irrigation system originally presented. However, according to Mr. Robbins, the engineered drainage plans were faulty, it included a landscaping plan that wouldn't work. They would prefer an irrigation system that works. They want credits for each lot owner that tapped into a dysfunctional irrigation system. They are asking that anywhere from \$1500 to \$500 per lot be allowed as credit against their water account. The lots already received a credit when they purchased the lot, but it went into the pocket of the developers. Mr. Robbins suggested that it may work to allow the credits to be used by the home owners during the summer months. He said he realizes this may be an administrative nightmare. He asked the Board to consider this option. He mentioned the two common areas. The Town has offered \$2000. He said this is not nearly enough to pay for landscaping plans. Rick Loether said the trees recommended initially were not workable. They were a Austrian willow variety, which requires a lot of water. He is asking that the Town pay \$8,000 for landscaping. He suggested the Town should provide water to common areas. He believes the Town should give a water tap for the common areas. Jeff doesn't want the Board to feel the constituents are in an adversarial position. Tom Connelly, ½ Moon Circle, spoke. He said they purchased the lots. They pay PRID \$100 each year for irrigation water. He wants this money to be paid back, and he wants the Town to charge them at the minimum amount each month.

John Ralph, (Durango) said everybody was sold a lot and told that they would have secondary water so they wouldn't have to pay for treated water.

The developer made good profit on the sale of these lots.

John Ralph represents the Sunrise Villas Homeowners Association.

He is president of the Villas association.

Cindy Smart, 1330 Kremer, said their HOA entered into conversations with PRID. They were told the rights were not transferable. Then PRID went through changes last year.

They (PRID) are now willing to work with the Town of Bayfield, to give them (the Town) PRID rights.

Mr. Robbins thanked the Board for their time. He finished saying, we think we are trying to be reasonable. He thinks the Town needs to step up and take care of the problem.

John Ralph added, by the way, there are no working street lights in Sunrise. The Town had committed to get them working.

The Mayor thanked the people involved for keeping the conversation civil. He asked for a motion from the Board.

Justin Talbot moved to go into Executive Session, citing C. R. S. Section 24-6-402 (4) (b) for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions. Dan Ford seconded. The vote was 7 in favor. Motion carried.

The Board moved into Executive Session at 8:45 p.m.

The Executive Session ended at 9:14 p.m. at which the regular meeting reconvened.

Rick again thanked the people who were present this evening, and those who stayed to know what the Boards final determination was. He commented 'We all have to share in the pain'.

Justin Talbot moved to stand with the prior offer that had been presented to Sunrise. Tom Au seconded. During discussion, Brett Clough said he bought there, sold there. He is very much in sympathy with the home owners. He agreed, the developer did not do what he was to do. He experienced this first hand. With that said, this is not an easy decision for the Board. Dan concurred, 'yes, there is a lot of fault, going back several years'.

The Towns responsibility is to all constituents, the Town has been generous in stepping up to the plate. Debbi agreed, the money comes from all the people of the Town, it just does not come from a fund somewhere. Brett said the credit was given to the developer. But, the Town has to take into account all the constituents involved.

The vote was 7 in favor. Motion carried.

Action Agenda Item # 8: New/ Unfinished Business:

Justin Talbot said the Fourth of July celebration went very well. 'It was 'nice!. Dan asked about the progress in the marshal's department. Justin C. has had some discussions with them. He will continue to work with the Marshal.

Bob Piccoli said the gate at the elementary school needs to be locked!. 'We need to inform the school.' He wants to thank them for finally dealing with their weeds.

Debbi asked what progress has been made on increasing water tap fees. Justin C. replied that the road impact fee was more on the forefront than an increase in water tap rates.

Justin C, proceed with caution.

Rick said there are five Tuesdays in September. Maybe they can talk about that then. Justin C. agreed, 'we should have a plan by then. Budget numbers should be done by then'. Debbi has information on road impact fees that the County has been working on. The County felt they should structure their impact fees the way the City of Durango has. The Road impact fee will be discussed, again, in September.

Brett Clough mentioned Mesa Meadows again. The pedestrian path was to get built and paved. 'Does the existing walkway belong to the Town?' Justin C. replied yes. Justin C. will ask the crews to mow the area between the fence and the easement border.

Justin C. said there have been other complaints. 'We need to either get different equipment, or maybe lean on the HOAs to mow the weeds'. Bob Piccoli said the weeds are the responsibility of the lot owners.

The Town can issue summons to owners to get the weeds cut. Bif is the Code Enforcement officer. He could issue a ticket for nuisance. The Ordinance says weeds that are 12 inches high constitute a nuisance.

Justin C., said the fence that is on the easement needs to be moved, it is not on the owners property.

Motion to adjourn 9:37 p.m.