

**REGULAR TOWN BOARD MEETING
TOWN OF BAYFIELD,
1199 W HWY 160 B.
BAYFIELD, COLORADO 81122**

MAY 19, 2009 7 P.M.

Town Board Present:

Mayor Pro-Tem Tom Au, Council members Justin Talbot, Robert Piccoli, Dan Ford, Brett Clough, and Debbi Renfro.

Staff Present:

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

Media: Carole McWilliams, Pine River Times

Mayor Pro-Tem Tom Au called the meeting to order at 7 P. M.

Brett Clough moved to approve the minutes of the meeting held May 5, 2009 as presented. Justin Talbot seconded. The vote was four in favor, with both Robert Piccoli and Dan Ford abstaining from the vote (neither was in attendance on that evening). Motion carried.

The Mayor Pro-Tem opened the meeting for general public input. Debbi Halwes, dba Mill Street Brews located at 25 W. Mill Street, Bayfield, CO. asked if the Town would entertain a proposal to close Mill Street between Pearl Street and Pine Street TO accommodate Arts and Crafts events being planned. Carole McWilliams said the barbeque today was wonderful. No other public comment was given. This portion of the meeting was closed.

Action Agenda Item #1: Approval of Bills:

Brett Clough moved to approve the payment of bills as presented with the packet, dated May 15, 2009. Justin Talbot seconded. The vote was six in favor. Motion carried.

Action Agenda Item #2: Town Updates:

Robert Piccoli asked about change order #9. He felt it contained an error. The savings in total was \$18,000, the credit to the Town should be \$9000. Debbi Renfro thanked staff for the update on the sports park. Justin Clifton spoke concerning the multiple activities happening last Saturday. The Town hosted spring clean up, there was a soccer game, and there was also a rodeo going on. He emphasized 'there was plenty of parking. A lot of the dirt has been moved'.

Justin C. said he forgot to include his goals that were a result of his evaluations. He is handing LEAD meeting attendance off to Jack McGroder. Chris Choate will represent the marshals office regarding any peripheral Public Safety meetings requiring the Towns representation.

Action Agenda Item #3: Elston Commercial Subdivision Amendment to the Subdivision Improvements Agreement: Applicant Doug Leming, 588 County Road 501, Bayfield, Colorado:

Joe Crane addressed the Council. He explained that Mr. Elston has requested a modification in the annexation agreement. He is asking for an extension of his SIA requirements, citing economic stagnation. The original agreement gave him until November 1, 2009 to have the public improvements completed. He also expressed a desire to Justin Clifton to find a way to reduce his LOC liability. At the last Board meeting, staff recommended an extension of two years for the work to be accomplished. At that time however, there was no discussion of the LOC issue.

Since the prior Board meeting, Justin C., Dirk Nelson, Doug Leming and Nancy Agro (attorney for the developer) have carried on extensive communications and have reached an agreement that meets both the Town and Mr. Leming's needs. Staff recommends that the Board approve the new amended agreement. It gives Mr. Leming until November 2012 to fulfill the negotiated terms. If the economy hasn't recovered by that time, he can come back again for an extension.

Justin C. told the Board that the new proposal is acceptable with Town's staff.

Dirk added, 'he (Mr. Leming) has a separate agreement with the County. He could sell the lots, but nothing could be built on them. Now, the modified deadline for infrastructure will be recorded with the County Clerk and Recorder. It will go on record to advise anyone who anticipates buying these properties'.

Brett Clough moved to approve the Agreement To Amend the Subdivision Improvements Agreement for the Elston Commercial Subdivision as presented. Debbi Renfro seconded. Dan Ford requested he be allowed to abstain from the vote, citing possible financial interests. The vote was five in favor, one abstention, Dan Ford. Motion carried.

Action Agenda Item :#4: Mike Branch – Discussion of Financial Assets:

Mr. Branch was present this evening to discuss a proposed RFP for bank services. Dan Ford addressed the Board, saying he was the person who raised the issue initially. He asked to be recused from the discussion and left the Council chambers.

Mike Branch had discussed this issue with Justin Clifton prior to tonight's meeting. The RFP that was drafted is acceptable with some minor changes. The most important qualification of any candidate bank is written documentation providing verification that the bank is a designated public depository by the Colorado Banking Commissioner of the State Commissioner of Financial Services pursuant to C.R.S. 11-10.5-101 and 11-47-101 et seq. This is referred to as the PDPA, or Public Deposit Protection Act. This is a State Statute which provides that any bank that takes public money, for any amount over the FDIC insurance, must give assurances that those monies are backed by qualified investments, preferably T bills, to 103% of the balance to be held by a third party.

This is to protect public entities from bank foreclosures.

The banks have to prepare a statement of government funds monthly, submitted to the State Banking Commission. The auditor would get annual reports showing that the funds are covered as mandated by Statute.

‘This is the main protection you should get for your funds, undisputable 100% guarantee that funds are backed by T bills, that the amount available will never drop lower than the deposits amount placed at that bank.

Interest bearing checking accounts: The interest rate would be agreed upon for a certain period of time. i.e., 12 months, 18 months. The clause that there would be no additional fees is attractive, fees can sometimes be substantial.

The language that the Town would favor banking with local entities, in order to stimulate the local economies, is in order.

Most Municipalities go out to market on the CD’s with banks and would include ColoTrust as well. Colotrust keeps everyone honest.

If Colotrust is giving more interest stay with them. If local banks know what ColoTrust is offering, they may offer more interest than ColoTrust. Mike stressed ColoTrust should be included in the entities that will be sent the RFP.

He asked the Board ‘how far do you want the ‘local’ radius to extend?’

Regarding CDs with the stipulation that the Town could redeem at any time, or in other words, not keep the CD for the original term agreed upon, Mike said ‘if you have a CD that is redeemable at any time, it is really a money market, not a CD.

The last item addressed probably should not be included. If you get the annual reports sent to the Banking Commission, you already know the safety of the financial institution. The safety of the bank is rendered by the PDPA. They have the experts who can interpret the data, and staff who are capable of knowing what constitutes solvent. The PDPA will give you the protection you require. It is redundant to require financial statements for this reason.

Regarding whom you want to seek proposals from, for practical matters the operating account should be here in Bayfield, since daily deposits are standard practice.

Because of this one activity, the Town needs to have a banking institution that is readily available.

He reiterated, PDPA designation is required by the State Banking Commission. The bank has to give that monthly report to the Town.

He then asked for direction from the Board on whom they want to involve in the RFP process.

Debbi asked about moving the operation account every year or two.

Mike’s reply was ‘if you are happy with the bank you are with, you probably don’t want to change’.

The conversation retrogressed back to who should be included in the RFP.

Justin T. said ‘we will go to where the best benefits are offered. We will start with Durango and Pagosa on CD proposals. We will stay with Bayfield banking institutions for the operating account’.

Action Agenda Item #5: 501 Trail Bridge Issue:

This item came to the Board at the last meeting. The Town has received information from the ditch company. Gerald and Phyllis Ludwig, representing the Schroeder Ditch, want a covered bridge spanning the ditch. The Town is running up against a deadline. Justin C. asked that the Board participate in open conversation with the Ludwigs this evening. They need to decide whether the Town would indemnify the ditch company on any liability incurred with the bridge being in place.

Phyllis Ludwig said she spoke to their insurance company. They do not want any bridge at all unless the Town would cover the insurance totally. She said a bridge attracts kids. The Town government does have governmental immunity. The ditch company would be the entity that the insurance claims go after. She added 'if they jump off the ditch bank, it's no big deal, but a bridge would be a huge liability. If it were enclosed, it would be less of a liability'.

She added, the estimated cost to pipe the ditch would be three million. That makes it unattainable solution.

Phyllis said they (ditch company) want the Town to take liability, whether or not there was a covered bridge.

Debbi asked if there were cost estimates on the covered bridge compared to an uncovered bridge, and what it may cost to pipe a particular section. The reply to her was that piping a small section creates additional danger.

In summation, in order for the Town to get an agreement to cross the ditch, the ditch company wants the Town to indemnify the ditch company.

Joe Crain said if the decision is to go with a covered bridge, the project will not go forward (cost prohibitive). If the Town can't get an agreement with the ditch company, the project won't go forward. He spoke with the County engineers. They met at the ditch crossing. Justin C. said, based on a safety standpoint, this issue needs attention. 'The ditch company wants indemnification regardless, commented Bob Piccoli.

Gerald asked the County to pipe it. They said they could not afford to do it.

Justin Clifton reiterated, the big issue is time. It is the County's project.

Dan asked about the possibility of an open bridge, one that the Town can afford. This would be a lot quicker and cheaper than the covered bridge proposal.

It will be a prefabricated bridge.

Brett Clough moved to indemnify the ditch company for the bridge, and to proceed with a County approved bridge. Dan Ford seconded. The vote was five in favor, with Tom Au opposed. Motion carried.

Action Agenda Item # 6: Traffic Study RFQ:

The Town went back to the land owners to get an agreement. It was difficult to reach a consensus on an agreement which outlined how to share the cost and who would be included in the formula regarding proportionate benefits.

About seven of the primary beneficiaries are willing to step forward now. The Town will need to raise anywhere from 12 to 20 thousand dollars. This would be the total cost of the traffic study.

Brett Clough wants this issue to come back to the Board before the agreement actually happens.

Robert Piccoli said ‘we need to see that they have signed on the dotted line before the Board approves any agreement’.

Dan Ford said he would like also to see money set aside in escrow. Brett Clough agreed, he thinks they need to pay upfront.

Tom Au suggested they pay 50% down, 50% at completion. Justin Clifton said the Town would need to structure an agreement in order for them to pay monies up front. The Board decided to go with the 50/50 arrangement. Dirk will have the agreement ready for final approval by the next Board meeting.

Action Agenda Item # 7: New/Unfinished Business.

Justin Clifton reminded the Board that they were invited to the annual LPEA social gathering tomorrow at the Casino at 5:30 P.M. They would like as many board members to attend as possible.

There were two possible, but uncommitted..

The annual CML conference will be held June 16 thru 19. It is going to be in Vail. Justin wants a gauge of interest if any Board members would like to attend. Staff has never attended; it is tough to get away from work. If the Board would like to see the brochure, it is available. Anyone who would like to attend should register by the 22nd of May.

Please get back with Justin to let him know if you intend to go.

Justin Clifton wanted to make the Board aware that there may be an appeal of a personnel matter. The Policy and Procedure Manual states that if they want to appeal, for what they consider a wrongful termination, the employee must submit an intent to appeal and the Board must act on any appeal regarding the issue within ten days.

Dirk cautioned the Board, ‘Do not have any contact with any employee outside the hearing venue. If they try to contact you one on one, avoid any discussion.

Debbi asked about the possibility of legalizing golf carts running on Town roads similar to what Durango has.

Justin Clifton will research this.

Justin Talbot asked if we are moving on the Candelaria easement. Dirk responded ‘yes, we are moving toward closing’.

Action Agenda Item #8: Executive Session: C.R.S. 24-6-402 (4) (e) Sunrise Estates:

Justin Talbot moved to go into Executive Session, citing C.R.S. 24-6-402 (4) (e), for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/ or instructing negotiators concerning Sunrise Estates, to include Justin Clifton and Dirk Nelson. Bob Piccoli seconded.

Prior to taking the vote on this motion, the Board opted to listen to Trudy Kremer, who had come in subsequent to the Public Comment portion of the meeting but wished to address the Board. Representing Pine River Arena Association, Trudy commented that their organization had held a rodeo this past Saturday. There was also a soccer game going on. She said when there are soccer activities, those people are parking amongst those people who have horse trailers. She feels this is a dangerous combination, kids and

horses. Brett Clough asked her if the Rodeo Association could direct the parking in those situations. She answered 'yes, maybe'.

Debbi asked if Trudy has spoken with Scott Key about this. Trudy said Scott set up a meeting and then did not come to it. Justin Clifton interjected, Scott told him that he did attend the meeting. Justin Clifton added, there are 50 to 60 open slots, even when there are several events being held on the same day at the same time. It is just a matter of inconvenience when people have to walk further.

The Board said staff will need to work on regulating the parking.

The Mayor Pro-Tem asked for a vote on the pending motion. The vote was six in favor. Motion carried.

The Board moved into Executive session at 8:35 P.M.

The regular meeting reconvened. Bob Piccoli made a motion to settle the Sunrise Estates negotiations by maintaining a reduced rate for water tap fees, granting a free water tap to the common area (by the wellhead) and issuing a \$500 credit for each residential customer currently paying a water bill. Dan Ford seconded the motion. The vote was six in favor, unanimous. Motion carried.

Motion to Adjourn.
