

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

APRIL 7, 2009 7 P.M.

Town Board Present:

Mayor Rick Smith, Council Members Justin Talbot, Debbi Renfro, Tom Au and Dan Ford.

Brett Clough and Bob Piccoli were both absent due to personal reasons.

Staff Present: Justin Clifton, Town Manager, Pat Anselmo, Town Clerk, Dirk Nelson, Town Attorney and Chris Choate, Bayfield Deputy Marshal.

Media: Carole McWilliams, Pine River Times

The Mayor called the meeting to order at 7:03 p.m.

The Mayor informed everyone, as a general reminder to the Board and the public, there will be no Regular Board meeting on April 21. The Board has scheduled their annual retreat for Saturday, April 18. It is scheduled from 8 a.m. to 5 p.m. This work session will be an open forum meeting and will take place at the new Town Hall.

General Public Input:

The Mayor told the audience they would be allowed to comment during Agenda Item #3. He then opened the meeting for general public comments. Mack Coker, Riverside R.V. Park, said he wanted to thank the Board for their support during the Tommy Miller addressing campaign.

Justin Clifton introduced Chris Choate to the Board. Chris is one of Bayfields deputy marshals. Justin continued, the marshal will be retiring within the next several months. The hiring committee offered the position to Deputy Choate. Justin added, the Town is very fortunate to have Chris, he is well qualified. Chris responded by saying he wanted to thank the committee that chose him for the position and he looks forward to working with the Town. Duke Schirard, La Plata County Sherriff, spoke, commenting that Chris has done an excellent job.

Approval of Minutes:

Justin Talbot moved to approve, as written, the minutes of March 17, 2009. Tom Au seconded. The vote was five in favor, motion carried.

Action Agenda Item #1: Approval of Bills:

Justin Clifton said there were two invoices that are not included in the payment request included with packet materials. He needs to have approval for invoices for the Gem Village lift station permit, roughly \$1539 and \$1200, respectively, which are the

permitting fees for the new site application. The deadline for the grant application is April 27, he would like these two invoices included in the approval of bills.

Tom Au moved to approve payment of bills dated April 7, 2009 and included the two invoices referred to by Justin Clifton. Debbi seconded. Tom asked that the record reflect that he abstained from voting regarding any payments due to him.

Action Agenda Item #2: Town Updates:

Justin told the Board that his annual evaluation forms were placed on the dais earlier this evening for the Boards use.

Debbi asked if Brett Clough had communicated any comments (to Justin C.) he would like expressed on issues before the Board for this evening. Justin C. replied 'no, he had not'.

Tom voiced several concerns regarding the blue prints for the recycling center. The track hoe cannot be (situated) on the ditch without damaging the chain link fence, which is on the property line on the dyke.

Justin C. said he would see that this is changed.

Dan Ford commented, saying he appreciated Mike Branch's comments regarding the financial stability of the Town. But, Dan continued, the budget shows new projects, the recycling facility, new sidewalks, etc. He is concerned about the Town's ability to do all of the projects, because of the downturn in the economy.

Justin C. said the grants have already been awarded. If approximate costs come in too high, the Town will not follow through on the projects. He pointed the Boards attention on the pro-formas he had drafted for the Waste Water Treatment Facility, which depict 'worst case vs best case scenarios'.

The Town has already collected \$54,000 in sewer tap fees for the year. He is confident the 'worst case scenario' will not happen. Justin C. said he exaggerated on costs and non-availability of funds (referring to the worst case pro-forma).

Action Agenda Item #3: Snow Removal - Landscaping:

Justin C. said it was decided by the Town Board earlier in the year to wait on this issue, in order for them to be able to assess the actual damages that had been done. Now that the snow has melted, the damages are evident, the situation is unfortunate. The condition of the rights of way and some yards was caused by an effort on the part of the Town to be sure that the driving lanes were wide enough to accommodate additional snow.

In some areas, snow plow equipment did drive on the tree lawns. Some residents have asked what the Town intends to do to address this. Justin explained, 'the challenges are difficult because the landscaping, at times, is in the public right of way. This doesn't qualify the endeavor'. His memo has been written to help the Board in an effort to draw a 'line in the sand' where actual claims versus frivolous claims that may occur might be separated. Justin C. continued, 'there will be difficulty in administering the accountability, and assigning the responsible parties'. Staff feels badly, Justin regrets the damage, it was not a result of haphazard snowplowing

The Mayor opened the meeting for public comment to allow people who incurred property damage as a result of snow plowing to speak.

Duke Schirard, 225 South Pearl Street, addressed the Board. He stated that Mrs. Sossaman has spent substantial time and money on erecting a fence and installing a sprinkler system on her property. The plow not only damaged the fence but also ripped up some of her sprinkler system. He explained that the Town, the Forest Service, and the Post Office had all plowed snow into her property, but the Forest Service and Post Office had both offered to pay for damages. He said 'it was obvious to him that their plea to the Town met resistance'.

Across the street from him, his neighbor had a brick wall damaged. He felt it was due to lack of training and lack of supervision. He stressed, 'the Town needs to have training for the snow plow crew. He said the fence is not in the Town's right of way. Grace Sossaman, spoke. She said it cost her \$702.00 to repair the fence. She said she contacted Mr. Clifton and was told by him that the damages did not occur on her property. She asked him to measure the property. She called several times and was put off. 'I have lived there 37 years. We have had plenty of snow over the years, and this last winter was the only time I have had damages occur on my property.' She takes pride in her property and her community. She said she was told the problem was hers.

Mrs. Bri Thomas, 260 Pearl Street, spoke. She has been in the community twenty years. There has never, up until this year, been damage to her property. She submitted the plans for her driveway, and her landscaping, which included placing brick around her driveway. The plow dug underneath the ground and pulled up the black plastic lining and rock. She did not feel that the people driving the plow had any training at all. She is not asking for compensation, but she asked that the Town have a crew go to her property and repair the damage.

Linda Hoban, 1434 Kremer Drive, resides in Sunrise Estates. She commented 'the Town has a 10 foot easement but it does not have the right to tear up her property'. She is asking that the Town repair the damage.

Cathy Rhodes, 798 S East Street, addressed the Board. They own the property at 570 East Street. She passed pictures out to the Board for review, commenting 'they covered her pickup truck, to the windshield, with snow'. She asked if the Town decided to use a new method of snow removal. She remembers past snow falls. The Town used to plow the snow to the center and then haul it away. She wanted to know why that policy changed. 'They are now plowing it to the side, which damages property'. She called the Town, she got excuses. She is asking that the Town strives toward working for the people, and not in an adversarial position.

David Black spoke. "There was a lot of snow on Christmas Day, they did not plow on Christmas Day. When they did plow, they had ice to remove. The Town should have paid the over-time. The Town pushed the snow to the middle of South Street and left it there. Justin Clifton defends his Public Works department. I have heard Mr. Saba say 'I don't care'."

Grace said the Town needs to accept responsibility for their actions.

Cathy Rhodes recalled the day the culvert on East Street was giving way. She notified the Town but Justin was out of town, she notified the Fire Department and the marshal's department. This street is the only exit for them. It was a huge safety issue for her. She

asked ‘who do we contact when Justin Clifton is out of town? Does the Board have someone on call?’ The Mayor responded, ‘the Board leaves the operations to Town staff. If Justin is gone, the marshal is assigned the responsibility’.

Justin C. said he usually puts Joe Crain in charge. Stopping the trucks, because of the contract, would have been more difficult. Cathy said they need someone in charge who has the authority to act.

The Mayor said he will develop a chain of command in order for the Town to have a point person to contact.

Duke Schirard said they only receive lip service.

Justin C. said he went out to assess the damages. He added ‘It is difficult when damages are outside the rights of way’. Justin apologized for the miscommunication. He personally does not have the authority to commit funds. It needed to be brought before the Board for an authorization for re-imbusement to those involved.

Rick explained that the Board stopped Justin short, they wanted to know all the places that were damaged, and the extent of the damages before they made a decision. That is why this issue was on the agenda this evening. The policy the Town used this year was a change from the past. ‘We acknowledge, we should have stayed with the previous snow removal procedures’. Rick said the changes will be dealt with, but, they did need to wait until the snow was melted and the damages were entirely visible. ‘It was a Board call, not Mr. Clifton’s’. Right of way does not equate to we have the right to demolish whatever is in the way. We do not have the right to destroy property. No one should have said ‘we have a ten foot right of way’. The Town has doubled its lane miles. The cost of hauling the snow away is a budgetary constraint.

Justin C. commented ‘we will not follow the same plow procedure in the future.

In an effort to solve one problem, we created a new one’.

Rick summarized, ‘the publics comments are vital communication necessary for us, they deserve quick response. We will not make the same mistake again.’

Rick added, the Board will take these concerns under consideration at the retreat. Justin T. agreed, yes.

Debbi, agreed as well, saying ‘we need a plan. At the last Dove Ranch HOA meeting, this was a large issue’. Tom Au agreed to discussion during the retreat, but said the Town needs to step up to the plate and cover the damages it caused. It has gone on too long as is.

Rick asked staff to contact the people that spoke out tonight and let them know that the Town is dealing with their concerns immediately. Dan made the comment, ‘we don’t want to wait, I think our crews should fix what is in the Towns right of way. Justin T. stated ‘they don’t want the Towns crew on their property’.

Justin C. agreed the Town should hire a contractor to fix the tree lawns.

Rick reiterated, ‘let’s get repairs underway now. Work up a general policy on a chain of command to give to the public so they know who to talk to and what to expect. Get it published immediately’.

Justin C. asked what course of action to pursue if the claims are excessive.

Tom cautioned ‘if Town staff does work, they should take the same care that they would do on their own property’. He thinks they are sloppy. Justin T. stressed the importance of getting the property owner to sign off on work done. Debbi recounted a call that she made to Ron ‘and the problem was not taken care of’.

Action Agenda Item # 4: CDBG Request for Bayfield Early Education Program:

Justin C. explained that they (BEEP) heard the request for the Town to be a sponsor for the Regional Housing Alliance. Bayfield Early Education now is requesting that the Town sponsor them as well in applying for CDBG grants. He commented that other entities do this regularly. But, he wants to be sure the Board is in agreement, 'in case the contract is violated. If we are the fiscal agent, we will be putting money out'. Carol Blatnick commented, they are non-profit, this is something that they are forced to do. Justin T. said he is a big supporter of the BEEP organization, 'let's do it'.

Justin C. countered 'if we put our name on the line, they will have to sign agreements'. Dan Ford moved to have the Town of Bayfield be a signing agent for a CDBG grant for BEEP. Debbi seconded. The vote was five in favor. Motion carried.

Action Agenda Item # 5: Resolution #235- Sufficiency Resolution for Eastwood Annexation:

A written petition was filed with the Town requesting the annexation of the Eastwood Property (refer to Exhibit A attached). The Board made the determination that the annexation petition met all substantial compliance requirements as outlined in the Colorado Municipal Annexation Act.

Resolution #234 is a resolution of the Town of Bayfield, Colorado Finding Substantial Compliance and Initiating Annexation Proceedings For The Eastwood Annexation. Tom Au moved to pass Resolution # 235 which finds the annexation petition for the Eastwood Property to be in substantial compliance. Dan Ford seconded. The vote was five in favor, motion carried.

Action Agenda Item # 6: Public Hearing: La Casita Mexican Restaurant- New Liquor License:

Robert and Jacilyn Butrymowicz, co-owners of La Casita Mexican Restaurant were asked if they had any comments or questions for the Board. Rob said retirement isn't what it was cracked up to be. He wants to do a good job for the community. The business will be a dinner house, not a late night bar. Alcohol will not be leaving the premises.

Rick opened the public hearing for comment. None was received. The public hearing closed.

Consideration: Justin Talbot moved to approve the request for a new hotel restaurant liquor license for La Casita Mexican Restaurant located at 118 E. Mill Street, Bayfield, Colorado. Tom Au seconded. The vote was five in favor. Motion carried.

Action Agenda Item # 7: Fox Farm Park Fees/ Land Trade:

Justin C. explained, if the Board wants to discuss this proposal in detail, they could call an executive session. In his memo, Justin recalled, this is an affordable housing project. It was undertaken by a non profit entity. The Town agreed to waive the park fee in trade for the developer making a public use facility out of the existing Fox Tower. The developer has subsequently determined that they would sell the lot, the developer would be able to pay the park fee paid when they sold the lot. They are now asking that the Town accept the two fair market lots in lieu of the money due. Reid Ross said the Town could accept the offer, it is possible the market may recover and the lots would be worth more. The non-profit entity is restricted, they cannot fix the Fox Tower nor pay the park fee if the lots are not sold.

Reid Ross was clearly in favor of this proposal. Dan responded, saying this a generous offer, but he does not think the Town should compete with private entrepreneurs. If the Town should sell the lots at a reduced price they would be putting the competitors at a disadvantage. Justin T. agreed with Dan, this would put the Town in a tentative position. Debbi concurred; the non-profit should do the selling, not the Town.

Reid commented 'we are all in the same bind. Banks won't make construction loans to build houses'. He continued, the lots are worth \$60,000. But there is no market. In the long run, the Town will come out ahead. If the Town waives the fee, they *might* be able to fix the tower. He then added, they can't do the tower. They need to get the lien against the tower lot cleared so they can move ahead.

Rick asked if it would be possible to transfer the lien from the tower lot to the two fair market lots. Rick told Reid it was their business to sell the lots. The Town is not an owner, nor can it serve as a real estate agent to sell property at a profit. The Mayor recalled Mr. Black voicing concern that he did not want affordable housing next to his lot. Rick doesn't want to re-visit that conversation. It is not in the Towns best interest to pursue a 'perceived competition course'.

The Town wants to preserve the Fox Tower, for public use as previously agreed upon, in lieu of receiving a park fee from Fox Farm Development.

Action Agenda Item # 8: Public Hearing – Ordinance # 342 – Water Policy Amendment:

Justin C. compiled a new owner release form to provide complete protection for the Town. Justin T. suggested italicizing, bolding and underlining the pertinent language. Justin C. said he would do as Justin T. suggested.

The Town is in process of changing procedures, the meters are to be read within the first five business days of the month. Utility bills will be mailed by the tenth. People will get two bills before any potential shutoff notice is mailed to them.

The Mayor opened the Public Hearing. No comments were received. He then closed the Public Hearing. Tom Au moved to pass ordinance #342, an Ordinance of the Town of Bayfield, Colorado amending Chapter 15, Article II, Division 4, of the Bayfield Town Code. Dan Ford seconded. The vote was five in favor. Motion carried.

Action Agenda Item # 9: Construction Standards:

Justin C. explained, the (Bayfield Town Board) committee's suggestions have not been incorporated in this draft. It took numerous iterations. He doesn't know why the engineer did not incorporate the committee's suggestions. He requested that the Board thoroughly review this draft. Then they can proceed with finalization of the standards..

Debbi said she met with Ron and found twenty or so things that need to be changed. She loves the format even though some of the changes are not included. She specifically mentioned permits and inspections, and the specification that all contractors need to be licensed and bonded to work for the Town. They discussed the paragraph that addressed 'contractors shall not perform work on Saturdays or Sundays'. This needs to be thought out. Individual property owners need to be able to work on their own property on the weekends and in the evenings. Justin C. wants to be sure that these standards are reviewed in depth and understood to be complete before the Town Board approves them. Debbi then commented that copper lines are inferior, they are costly and they are easily bent. She feels an alternate material should be allowed in the right of way. She stressed that the minimum asphalt depth requirement, 3 versus 4 inches, needs to be re-visited.

Rick cautioned, 'it is important to have this set standard, it will put the responsibility on the contractors themselves'. Justin C. said the formal rendition goes before the Planning Commission before the Town Board approves it. He wants to be sure the Board reviews it in depth, with full discussion to be sure that it is up to the most refined level possible before it goes to the Planning Commission. The individuals who have volunteered to review it will be the ones to suggest any changes, modifications, etc.

Justin C. will get a final signoff from the board members who undertook this task. Tom wants to talk to Brett (Souder Miller) about this draft. Justin C. said Mike from the Town of Cortez compiled this format, not Brett.

Rick concluded, Justin C. has enough direction to proceed.

Tom said it might be advisable to put this in a PDF format and put it on the website. This would allow the contractors to download it, which would save the Town money.

Debbi Renfro, Tom Au and Bob Piccoli comprised the committee. Dan questioned 'is Debbi bringing suggestions to the Board that would bring direct financial benefit to her? Debbi works for a developer, would there be a possible financial interest?' Dirk responded that the Town's engineer was given the responsibility to bring these standards forward. Tom stated, Dan does have a point, and it is well taken. He feels the full Board should be present when it is time to adopt the standards, and have the two or three people who may benefit financially step down from the vote.

Dirk said he will address this issue from a legal standpoint regarding 'direct versus indirect' financial interest. The law would consider how the Board would defend their decision, substantiating that no one person benefits from the standards themselves.

Action Agenda Item # 10: Sunrise Estates:

The packet included the scope of work proposed by Goff Engineering. These expenditures were not anticipated and therefore not a budgeted item. It will be work done under a settlement. Before the work begins, the Board needs to approve the scope of work and the best qualified contractor for it. Justin T. asked that the contract designate a specific time frame. Debbi agreed, it should reflect they would start by *this* date, stop by

this date. Staff said the Town can require that Goff commits to having all work done by specific dates *without the Boards constant attention*.

Justin C. said ‘one issue was, they encroached a little on personal property. They need to be sure the retaining wall is within the easements’.

Tom reflected, the \$30,000 for engineering is unrealistic. Justin C. doesn’t know if this bid is competitive. He did want the engineering company to be responsible for the project oversight, including inspections. They (Goff) submitted a robust construction management price. The inspections must take place at the critical construction junctures. Debbi cautioned, ‘this project needs a close eye’. She would like to see more visits by Goff during the construction. Justin C. agreed, more visits but within the same cost. Justin T. stressed that the work needs to be complete before July (monsoon season). Justin C. will take these comments to Goff. Dirk was questioned if he had received the bond money yet. His reply was that he had not, but it was in process. He added, the Town can’t proceed without receiving the payment first.

Action Agenda Item # 11: Bayfield Liquor- Annual Liquor License Renewal:

Tom Au moved to approve the renewal of the annual liquor license for Bayfield Liquors, Inc. 455 E. Colorado Drive, Bayfield Colorado. Justin Talbot seconded. The vote was five in favor, motion carried.

Action Agenda Item # 12: New/Unfinished Business:

The Town does not have a cost sharing arrangement from private entities saying they would participate in the anticipated intersection located by the Shell station. Rick asked ‘are we in a holding pattern? We need to take the lead, if we wait for them, it will not happen.’ The Town needs to look at doing a study, and involve the developers. If the Town issues requests for qualifications, if we get proposals, time will lapse. The Town has paid its engineer to create these documents. The next step will be hiring somebody, but we need the developer’s commitment.

Rick directed staff, ask the developers if they are on board. If they are not on board, we will put it on the back burner.

Debbi queried, ‘how much would the developer pay?’ Justin C. responded, ‘we have listened to their input on their willingness to build an intersection. We have offered to pay for the study, if they help pay for construction’. His hunch is that it is too much of an undertaking in the stagnant business environment. The Town could pay for the study and ask for reimbursement. All we are doing currently is asking for a proposal on how to share the cost. He hasn’t received any communication from Brad.

Dan suggested the Town Manager can proceed with this, and put it on an agenda in May. If they don’t respond, it won’t happen. Tom suggested talking to them individually, not trying to orchestrate a joint meeting. Tom asked if Joe (Crain) could do this. Rick requested that Joe makes the phone calls, do the research to see if they are willing to participate and to what extent. The motivation has dissipated because of the economic downturn. They have not been willing to step up to the plate on participating in the cost share. Justin C. said he will get with Joe and set deadlines for it.

Debbi stressed, the Board needs to address the drainage situation. 'If the Town sees a big storm, the Schroeder will flood. The Town signed off on the permit. They need to be responsible to get it under 501. The Army Corp permit will expire in September of this year. Please do research to see if there is grant money available'. Justin C. will look into it.

Justin T. asked if the Town adds fluoride to the water. Justin C. responded, 'no we do not'.

Justin T. asked 'do you do an evaluation for the department heads?' 'Yes', was Justin's reply. 'The department heads also evaluate their staff each year. Wages are addressed during the budget process. There are varying factors that decide wage increases'.

Action Agenda Item # 13: Executive Session: C.R.S. 24-6-402 – (4) (3)
Financial Assets:

Dan Ford asked to be excused from the Executive Session.

Tom Au made a motion to go into Executive Session, citing C.R.S. 24-6-402 (4) (e) to discuss matters subject to negotiations. He asked that Pat Anselmo, Dirk Nelson, and Justin C. be invited to participate. Justin Talbot seconded. The vote was four in favor, Dan Ford recused himself from the vote. Motion carried. The Board moved into Executive Session.

The regular session of the Bayfield Town Board reconvened. Justin Talbot made a motion to invite Mike Branch to the May 5, 2009 Board meeting. Debbi Renfro seconded. The vote was four in favor. Motion carried.

Motion to adjourn.

Approved, May 5, 2009 as amended.