

**Town of Bayfield**  
**Regular Town Board Meeting**  
**October 19, 2010**  
**1199 US Highway 160B Bayfield, CO 81122**

**Town Board Members Present:** Rick Smith (Mayor), Tom Au (Mayor Pro-Tem), Justin Talbot, Debbi Renfro, Tom Au, Dan Ford

**Town Board Members Absent:** Gabe Candelaria, Ed Morlan

**Staff Members Present:** Justin Clifton (Town Manager), Dirk Nelson (Town Attorney), Marianne Jones (Town Clerk), Ron Saba (Director of Public Works)

**Media Present:** Carole McWilliams (Pine River Times)

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

**Minutes:** Tom made a motion to approve the minutes from the October 5<sup>th</sup>, 2010 Regular Town Board Meeting as submitted. Debbi seconded. All were in favor, motion passed unanimously.

**Public Input:** Mack Koker (Riverside RV) handed out a flyer for the Riverside RV Park. He stated that Riverside RV is part of the Good Sam network & the Family Motor Coach Association. These associations bring in a lot of revenue for adjacent communities when the RV parks host motor homes & motor coaches. Bayfield has been selected to host a Family Motor Coach Association rally in June 2011. He gave the floor to Perry Montgomery with Family Motor Coach Association to give the Board more details.

Perry Montgomery stated that Family Motor Coach Association is international throughout the United States, Canada & Mexico. There are approximately 95,000 members in the Association and they all own motor homes (which is a requirement to be a member). FMCA is going to bring a rally of approximately 100 rigs into Bayfield for a rally in June 2011. He explained that each one of these coaches will bring revenue into the surrounding communities by utilizing local vendors for eating out, fuel, etc. He thinks it will be a big operation and revenue generator for Bayfield to have this type of rally.

Dan asked how the Town could help and possibly make it an annual event for Bayfield.

Perry responded that it would be great if the Town Board would encourage local merchants to promote their businesses and possibly offer some incentives such as specials, discounts, catering, etc. Anything to get details to the vacationers about the amenities available in Bayfield is a plus and will help generate revenue for the local economy.

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

Tom made a motion to approve the bills dated October 15<sup>th</sup>, 2010 as presented. Dan seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #2: Town Updates**

Justin Talbot asked if the paving of Commerce Drive is on schedule for next week.

Justin Clifton answered that staff had hoped that Commerce would be done this week but weather has been a real wildcard and Four Corners Materials has had some scheduling issues. There is also the potential for some additional weather coming in by the end of the week. However, it is anticipated that it will be completed by the end of next week.

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Ron commented that he also spoke with Four Corners. They have finished paving on Mill Street except for the end near Highway 160B. They are going to do that on Wednesday October 20<sup>th</sup>. They hope to move to Commerce Drive on Thursday if weather permits and able to complete the project in one day. They will then move to the round-about after Commerce is completed. They will also be working on the crack-sealing on Thursday, Friday & Saturday if the weather is good enough to allow it. He hopes that the entire project will be completed by the end of the week.

Tom asked how much it costs to keep the recycling center open and operating.

Justin answered that the general estimates look to be approximately \$10,000.00 per year. Staff is really looking at hauling costs and the hauling frequency based on usage to determine if those costs are going to go up substantially or not. However, for right now the annual cost for labor and hauling appears to be approximately \$10,000.00.

Debbi asked if the School District is utilizing the center.

Justin answered that the staff has not coordinated anything with the School and he is not aware of them using it. He believes that they are still taking their recycling directly to Durango.

Rick asked if CDOT is more liberal or strict with their interpretation of transportation related expenses.

Justin Clifton answered that he gets the impression that they are pretty liberal with their interpretation. He thinks that it's possible the restrictions will be the same as Highway User Tax Funds or possibly even less. He hopes that transportation related expenses will include maintenance, operations, labor for plowing, patching, intersection improvements, etc. CDOT does expect that the Town will put the funds received for the purchase of the highway into a special fund; however, any interest that is earned on the money will be the Town's money and it will not have the same restrictions.

Dan asked about control of the road and if those details have been worked out in the contract.

Justin answered "yes and no". He explained that there will still be some maintenance expectations, aversion clauses, etc but he thinks that the next version will have clearer language that states the Town will maintain the road as the Town sees fit.

**Action Agenda Item #3: Sewer Reimbursement**

Justin Clifton gave his staff report. He stated that a couple of years ago the Town adopted what is referred to as a "good neighbor" policy. The policy is intended to help financially with sewer back-ups that are the result of the main line clogging. The policy was adopted after a resident had endured a sewer back-up for the second time. The Town's insurance doesn't provide any relief in situations where the Town has performed regular maintenance, thus the interest in the policy.

Dan Dallison has requested financial relief from a back-up that occurred at his home on Cedar Dr. at the end of August. The reason Justin is bringing this to the Board is because the back-up did not actually occur on the main line. The back-up occurred at the service line. However, in this particular case the service line extends well beyond his property and may actually be connected to another service line before it connects with the main. To make matters more complicated, the Town had not discovered the manhole closest to where the service lines connect to the main until this back-up occurred. The line was in fact jet-rodged the way all sewer lines are. However, the line was cleared from a lower manhole up to the point where the newly discovered manhole exists. When the new manhole was found and jet-rodged from the other direction it appeared to help clear the lines, including some of the connecting services. It is unclear but at least possible that if the Town had been jet-

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rodding from the discovered manhole they may have cleared the lines (including the services) before the back-up.

The policy as written clearly states that in order to receive financial support, the back-up must be the result of a clog on the main line. However, this circumstance is clearly unique. The bill is less than \$600 and the Town has funding available in the budget should the Board be inclined to provide support. He requested that the Board do a finding of fact that this situation would qualify for reimbursement under the policy.

The floor was given to the applicant, Daniel Dallison.

Daniel Dallison (1162 N. Cedar) stated that he looked at a video that his plumber took that the neighbors trees grew into the sewer line. He doesn't think this problem ever would have happened if the Town had jet rodded it from the unknown manhole and he requested that the Town reimburse him for the money spent out of pocket since it was not a situation that he could have prevented.

Justin Talbot stated that he does not have a problem with paying the applicant.

Debbi agreed.

Justin Talbot made a motion to pay the bill to Daniel Dallison for reimbursement for the sewer backup at 1162 North Cedar Drive. Debbi seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #4: Fire Code Appendices**

Justin gave his staff report. He stated that when the Town Board sanctioned a subcommittee to review Appendix B of the Fire Code they did not address any of the remaining appendices. The Fire Chief did present information to the Board on the other appendices he recommends for adoption and the Board gave direction for staff to work on consideration of the appendices and reach consensus if possible.

Enclosed in the packets is information from Chief Graeber on the appendices he would like to have adopted. Justin expressed that he doesn't feel that any of these have nearly the impact that Appendix B had for future development. However, Appendix C and D should be considered carefully. Justin stated that he is supportive of both but he thinks that there needs to be some clarification on how they are applied.

For instance, In Chief Graeber's report it is indicated that Appendix C (fire hydrant spacing) would apply to areas where no infrastructure exists. However, in recent conversations with Chief Graeber he indicated that the Family Dollar would need to install a new hydrant to meet the intent of Appendix C. In the business park this proposition is not too inconvenient as the hydrant can be installed without having to excavate the significant roadway. However, if the intent is to apply the standard to developed subdivisions the Town would need to clarify that in the adopting ordinance and the Town would also have to be prepared for potential road excavation.

Justin said that Appendix D pertains to access. He explained that he has no concerns at all when it comes to new development. However, he is concerned about how this would apply to existing infrastructure.

Justin stated that the purpose of this agenda item is to consider the appendices, hear from the Chief Graeber and give staff direction on drafting an ordinance for the next meeting.

The floor was given to Rich Graebar.

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Rich stated that the committee that reviewed the Fire Appendices consensually agreed that that they could be adopted and applied only to new infrastructure or new development. He also mentioned that the Town still needs to work out the details of a Board of Appeals that was adopted in Appendix A.

Justin stated that if the Board is agreeable to the direction given regarding the appendices, the staff will craft some language and bring back an ordinance for consideration at the next Board meeting.

The Board expressed that they are all in agreement.

**Action Agenda Item #5: Family Dollar Fire Flow Agreement**

Justin gave his staff report. He stated that when the Town adopted Appendix B of the Fire Code, which requires minimum fire flows for commercial and residential uses, it was done with one caveat. The caveat was basically that there would be some flexibility on meeting the "letter" of the Code. What staff mostly had in mind is that if there was a business that wanted to locate in Bayfield and that business didn't meet the minimum fire flow, the Town could look at "alternative means" of meeting the code. What staff had in mind with "alternative means" was that waterline looping or other improvements could be made that would alleviate the need for sprinkler systems, fire resistive construction or other improvements that might be needed to meet code.

It has been well documented that the business park is in desperate need of greater flow. The Family Dollar is in the process of building a store but they do not meet the fire flow requirements (most businesses in the business park likely don't). When Justin became aware of the Family Dollar coming in, he started a conversation with the Fire Department about the potential for the Town to commit to loop the waterline and eliminate the need for Family Dollar to address the fire flow needs on their own.

Justin stated that he has already included about \$50,000 in the draft budget to loop the line to the business park next year. He explained that the purpose of this agenda item is to make clear in a public meeting that the Town Board understands that if the Family Dollar is not to be burdened with sprinkler systems and other costly improvements due to the lack of fire flow, than the Town needs to commit to loop the waterline next spring.

This item has already been presented in the draft budget. Staff is only looking for acknowledgment and reiteration of the Town's commitment to loop the line and to capture that commitment in the public record.

Tom asked when Family Dollar hopes to have their building completed.

Justin Clifton answered that they hope to have it opened before Christmas. He also stated that he has received one complaint from a business owner in Bayfield that is very upset that the Town allowed this business to come and compete with the small businesses in Town. However, the Town doesn't have much authority outside of the regulations outlined in the Land Use Code. There are some things that can be regulated but the Town just doesn't have the ability to exclude businesses from locating to the Town if they meet the requirements. Justin Clifton expressed that he understands their frustration but there's nothing that the Town can do to prevent this sort of issue.

Justin Talbot asked if the Town will have some liability issues if something should happen before this line is installed.

Justin Clifton answered that the Town adopted a code that allows for this type of variation. The Town agreed to enforce the need for fire flow but in this sort of situation the Town has the ability to give some flexibility. The Town will be doing what they said they would do which is usually the gauge for measuring liability. However, staff does feel that it's important to have the commitment documented that the waterline looping is going to be done.

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Dirk expressed that the staff doesn't want Family Dollar to have to spend a lot of money on something that won't be necessary once the line loop is completed.

Justin Talbot asked if the applicant understands what the Town is doing and what the situation is.

Justin Clifton answered that it has been made very clear to the applicant and he feels that Family Dollar is very appreciative of the approach being taken by the Town.

Debbi clarified that this building will not have a sprinkler system.

Rich answered that the Fire Department came to the Town and let them know that if the line is not installed then Family Dollar would have to put in a sprinkler system that would cost approximately \$35,000 - \$40,000. The installation of the water line will bring the fire flow up to the required 2000 gallons per minute and the Fire Department is satisfied that will be sufficient and a sprinkler system won't be necessary.

Justin Talbot clarified that this loop is not specifically for the Family Dollar store.

Justin Clifton responded that this is infrastructure that everyone in the business park will be using. It is not special to just Family Dollar.

**Action Agenda Item #5: Town Hall Refinance**

Justin gave his staff report. He stated that he has some bad news regarding the Town Hall refinance. He received a call from John Self with Wells Fargo Bank clarifying terms of the refinance. It appears that the amortization table he presented to the Board and used for all of the reported savings analysis was incorrect. Actually, it was correct but the table included "hidden" information. The person who put together the amortization table used a starting principle balance that contemplated that the 2010 payment had already been made. However, despite using a beginning balance that contemplated the 2010 payment, there was still a payment made in 2010. In other words, the amortization table indicated that the Town would have annual payments of \$233,240, contemplated a payment of \$282,201 (the original debt service) **and** a payment of \$233,240 both in 2010. The second payment would essentially become an additional equity contribution to pay down principle, thus giving the Town 7 remaining payments of \$233,240.

Justin expressed that Wells Fargo made a mistake. The person who put together the first amortization schedule did not realize she had "embedded" the equity payment. It is difficult to catch because that amortization table has a payment made in 2010 at the same due date as the original debt service schedule and in no way shows both payments. The only way to realize what had happened would be to compare the principle balance on the first refinanced amortization table with the original table.

Once the mistake was caught, Wells Fargo sent over revised options for refinancing. Unfortunately, the information presented two meeting ago inflates the savings to the Town 5 fold. This issue is confounded by the fact that Wells Fargo also added a 1% fee to the refinance, something they did not do with the first numbers.

Enclosed in the packets is an Options Summary table. There are three main options for refinancing. The three options are all at the 3.5% interest but vary in the frequency of payments (monthly, quarterly, annually).

The annual savings is not \$50K but rather ranges from \$8K to \$11K. There is also the addition of the legal fees which would subtract about \$1,500 from each year's savings (about \$8K to \$10K total but do at the time of refinance).

Wells Fargo, aware of Justin's frustration that he and the Board were misled regarding the potential savings from refinancing, also included refinance options to extend the debt to 8 or 8.5 years. These options come with higher interest, which negates most if not all of the savings, but helps from an annual cash flow perspective and

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more closely matches the annual debt amount that was saw in the first refinance amortization table. Although the net savings is a very important consideration, the cash flow issue should not be underestimated in terms of importance. Remember that the Board agreed to take some of the "savings" from the refinance and reallocate funds to the General Fund. This is a very important strategy in attempting to hire another deputy. The Town could still move funds from Capital to the General Fund under the new refinance options. However, doing so would mean the Capital Fund would need to rely on small amounts of the reserve balance to cover annual costs.

The Options Summary was included in the packet for the Board to review. This is obviously disappointing because it significantly changes the anticipated savings. Justin thinks that given this news the Board may want to be more aggressive with shopping around for any other refinance opportunities.

The Options Summary provides all the information needed. Justin also included the original debt schedule so that he could further explain the confusion.

Dan expressed his disappointment over the way Wells Fargo relayed their information and treated their customers. He feels that it might be a good idea to make a few calls to other vendors and see if it's possible to get a comparable deal through someone else. He stated that he has talked to some other people and he thinks there might be some other avenue available. He thinks the staff should investigate other options at the very least.

Rick agreed that he is also extremely disappointed about this outcome and feels that there has to be another vendor that can help the Town with this financial matter. He concurred that the staff should investigate other potential options.

Justin Clifton mentioned that refinancing with another lender will most likely be a much more in depth process. Since Wells Fargo already owns the lease they are able to do an amendment to the existing contract. He cautioned that there might be other issues or costs associated with going with another lender. However, he stated that he will definitely look at other available options and see if they are worth contemplating. He asked the Board if they want him to look and if he doesn't find anything to go ahead and move forward with Wells Fargo or if they want it to come back before proceeding either way. He expressed that he does not think there are any comparable deals available but he does think the Town should look to see if there is.

Debbi asked about the quarterly payments vs. yearly payments. She wanted to know if the Town would earn more interest on keeping the money for the whole year rather than doing quarterly payments.

Justin answered that he does not think the Town would earn enough in interest to justify the yearly payments. He feels that quarterly payments are completely reasonable.

All of the Board members agreed to quarterly payments.

Dan suggested doing the search into two or three other options but if there aren't any available to go ahead and amend the current contract.

Justin Talbot asked how this will change the budget for 2011.

Justin Clifton answered that he is going to have to rework some of the funds in the budget for 2011 due to the decrease in the savings and then it will be represented to the Board to make some decisions on moving funds around and Town priorities.

Dan made a motion to authorize staff to pursue refinance through other alternatives & lenders; however, if the search does not produce a significantly better alternative staff is to proceed with the refinance through Wells Fargo. Tom seconded the motion. All were in favor, motion passed unanimously.

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**Action Agenda Item #7: Finance Director Position**

Justin gave his staff report. He stated that Dot Caton is resigning her position with the Town as her husband has accepted a job in Arizona. She will remain with the Town until sometime in January. The loss is a significant one as Dot has proven to be a tremendous asset & an outstanding addition to the Town team.

Justin asked the Board to consider allowing him to commence a search for her replacement with the anticipation that there will be some limited overlap with Dot still in her position. This will allow for a more seamless transition and will come at minimal cost. He also asked for some participation from a couple Board members to serve on the search committee like last time.

Dan expressed that he would be willing to serve on the search committee. He asked if Justin plans to re-advertise the position or just pull the applications from the previous search.

Justin Clifton answered that he plans to do both.

Justin Talbot asked if Dot would be involved in the hiring committee.

Justin Clifton answered that he doesn't think she will be in the committee but she will be highly involved in the process.

The Board volunteered Gabe to also serve on the committee.

Debbi expressed how much the Board is going to miss Dot and how sorry the Board is to see her go. She commended the work that she has done and the job that she has done for the Town and expressed that the Board really appreciates all she has done in the time she has been with the Town.

**Action Agenda Item #8: Holiday Calendar**

Justin gave his staff report. He stated that there are just a couple of meetings that need to be adjusted due to the holidays. First, the Board agreed to reschedule the November 2<sup>nd</sup> meeting due to Election Day. Justin expressed that he thinks moving the meeting to Thursday November 4<sup>th</sup> would work. However, he also hopes to have budget presentations starting at 5pm that day.

The second November meeting is on the 16<sup>th</sup>, which is well in advance of Thanksgiving (Nov 25<sup>th</sup>). He asked if the Board is okay with that meeting as it is.

There are two meetings scheduled around Christmas and New Years. The second meeting in December is scheduled for December 21<sup>st</sup>, which although is not too close to Christmas day, is close enough to Christmas that some Board members may be traveling. The first meeting in January is on January 3<sup>rd</sup>, which although it is not too close to New Years day, Justin Clifton planned on taking the week before off, which would make preparation of packet materials difficult. Justin expressed that he thinks it's possible to keep the December meeting and cancel the first January meeting, reschedule one or both, or keep both on the agenda but expect an abbreviated meeting.

The Board suggested moving the November 2<sup>nd</sup> meeting to November 3<sup>rd</sup> at 5:00 p.m. and cancelling the January 4<sup>th</sup> meeting.

Tom so moved. Debbi seconded the motion. All were in favor, motion passed unanimously.

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**Action Agenda Item #9: New/Unfinished Business**

Rick requested that the SWCOG membership fee be included on the next agenda item.

Justin Clifton responded that he is planning to include that fee in the budget and it can be discussed during the budget meeting. He also reminded the Board that the meeting on November 3<sup>rd</sup> will be held early so that the Board can hear Department Head presentations.

**Action Agenda Item #10: Sunrise Estates  
Executive Session: {C.R.S. Section 24-6-402(2)(e)}**

Dan made a motion to go into executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and or instruction negotiators, under {C.R.S. Section 24-6-402(2)(e)} and he requested that Dirk & Justin be included in the session. Debbi seconded the motion. All were in favor except Tom who abstained due to a conflict. He expressed that he would not be participating in the executive session.

The Board members came out of executive session.

Dan made a motion to accept the offer of \$7,000.00 to the Mallonee's for their 20' easement with the stipulation that they convey that easement to the Town by the next Board meeting (November 3<sup>rd</sup>, 2010). In the event that agreement is not reached as described the Town will proceed with the construction of the drainage across the property using the current easement. Justin Talbot seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #11: Sunrise Estates Bids**

Justin gave his staff report. He explained that staff needs direction regarding the bids received for the ditch repair. The Town received 3 bids for the work. The low bid, submitted by Sunnyside Gravel and Excavation was for \$98,517. The two other bids were from Crossfire, LLC (\$107,035) and Neils Excavation (\$144,422).

The bids are only slightly higher than the engineers estimate of \$91,000 but are significantly higher than the conceptual estimates received last year (\$40,000-\$80,000) and even higher than the funds available from the settlement with the developer (about \$42,000). On all of the bids the highest dollar item was the retaining wall, which ranged from \$60K to \$100K. Justin has discussed with the engineers the ability to refine the project. Staff could likely reduce the quantities somewhat but more likely it would be necessary to look at alternative materials to save any significant money. Even if the quantities could be reduced substantially and alterative materials could be used Justin doesn't think that the total cost would be reduced by more than 10%-15%. There are also additional engineering costs and possible change orders that would need to be considered.

The first thing that needs to be considered is if there is any decisions made as a result of the executive session that cause the Board to suspend or cancel the project scheduled for this year. The other issue is that the apparent low bidder, Sunnyside Gravel has limited references for similar work. The references for the work performed were all good, but the work entails more heavy equipment and less detail-oriented work. Justin included in the packets a letter from Alton Hess, the proprietor of Sunnyside Gravel attempted to address these concerns.

Justin Talbot asked how much would be spent to re-engineer the project.



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Justin Clifton answered that it shouldn't be more than \$1K - \$2K. The whole engineering budget including project oversight is \$8K.

Rick stated that he thinks the first thing that needs to be done is pulling the culvert.

Justin Clifton doesn't think that it will be necessary to bid that piece of the work. The Town will get a couple of estimates and go with the lowest qualified estimator.

Justin Talbot asked if it would be more cost effective to have Town staff do the culvert work.

Justin Clifton answered that it was certainly a possibility.

Rick commented that he is inclined to reengineer the project to see if it's possible to get the price down.

Debbi agreed that for \$1K - \$2K it might be worth it to reengineer.

Justin Clifton suggested that if this project is going to be held up at all that the Town should leave it in the best condition possible and leave it until spring. However, the staff is still pushing to get it completed this year.

Justin Talbot asked if the agreement that the Town signed specifically states what type of retaining wall has to be installed.

Dirk answered that the agreement states that the retaining wall will be done per the Goff specifications.

Debbi suggested again that it would be worthwhile to have Goff re-engineer the plans rather than have the contractor value-engineer it due to that stipulation.

Justin Clifton asked for a motion that states that the Town will move forward on a separate contract for removal of the culvert, to engage Goff Engineering to re-design the retaining wall to reduce the costs, and to re-bid the project. If the project is going to be bid this year, the Board will also authorize staff to sign a contract obligating up to \$100,000.00 (this is more than what was originally budgeted for this project).

Debbi so moved. Dan seconded the motion. All were in favor, except Tom who abstained.

The meeting was adjourned.

*Minutes were approved as submitted on November 3<sup>rd</sup>, 2010.*

**Approved:**

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Rick K. Smith  
Mayor

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Marianne Jones  
Town Clerk