

**Town of Bayfield
Regular Town Board Meeting
June 3, 2010
1199 US Highway 160B Bayfield, CO 81122**

Town Board Members Present: Gabe Candelaria, Dan Ford, Justin Talbot, Ed Morlan

Town Board Members Absent: Rick Smith (Mayor), Tom Au (Mayor Pro-Tem), Debbi Renfro

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

Planning Commissioners Present: Michelle Nelson (Chairman)

Media Present: Carole McWilliams (Pine River Times), Patrick Young (Durango Herald)

Since the Mayor & the Mayor Pro-Tem were absent from the meeting, it was decided that Ed Morlan would chair the meeting.

The meeting was called to order @ 7:07 p.m. by Ed Morlan.

Minutes: Dan made a motion to approve the minutes from the April 20th, 2010 Regular Town Board Meeting as submitted. Gabe seconded the motion. All were in favor, except Ed who abstained from the vote.

Dan made a motion to approve the minutes from the May 4th 2010 Regular Town Board Meeting as submitted. Gabe seconded the motion. All were in favor, motion passed unanimously.

Public Input: No public comment was offered so it was immediately closed.

Action Agenda Item #1: Approval of Bills

Justin Clifton added an additional invoice for the Los Pinos Ditch Company. This invoice is the fee for transfer of rights from the Ditch Company to the Town.

Gabe made a motion to approve the bills dated 5/28/2010 as submitted and include the invoice to the Los Pinos Ditch Company. Justin Talbot seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #2: Town Updates

Michelle Nelson, the Planning Commission Chairperson gave a brief update on the Planning Commission Meeting that was held on May 11th, 2010.

Gabe asked if the warranty issues with Gem Village Lift Station have been resolved yet.

Justin Clifton answered that he has received a verbal commitment from Smith & Loveless to extend the warranty to two years. However, they want the lift station leveled before putting that warranty into a written document. The Town has received a bid from Crossfire for approximately \$11,000.00 on that project. Once that work is completed the staff will ask for the warranty paperwork and then request reimbursement for the costs associated with the downtime of the lift station.

Gabe asked if there was an inspector on that job.

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Justin Clifton answered that there was an inspector for the job but unfortunately nobody checked the levelness of the wet well.

Gabe asked if the inspector approved the levelness of the wet well.

Justin Clifton answered that it wasn't included in her role to approve every aspect of the project. She took pictures, created logs, & verified items outlined in the specifications. She did raise a red flag about the soft soil conditions around the excavated area near the lift station. However, there weren't specifications stating that the wet well needed to be measured for levelness.

Ed asked how long the Sports Park project has been going on.

Justin Clifton answered that it's been going on for about a year. The Town is waiting on two final punch-list items from Davidson Construction for final completion.

Justin Talbot asked if the new field is going to be ready for use this year.

Justin Clifton answered that the staff has spent approximately \$7,000.00 to level it and put sand and mulch throughout the field to fix any potential hazard areas. The field will have limited use this season to minimize impact.

Action Agenda Item #3: Financial Update

Dot gave her staff report. She stated that Michael Branch was scheduled to present the audit on June 1st, however, reviewing the draft audit financial statements took far longer than envisioned. The draft that was given to the Town was full of errors – grammatical, numeric, formatting, etc. In many instances, Dot even struggled to tie the financial statements back to the Town records. After nearly a week-and-a-half of arduous review, she sent Michael a seven page long Word document full of changes.

The errors that were most surprising included:

- Seven instances that the Town was referred to as the District
- The abbreviation for Generally Accepted Accounting Principles (GAAP) was abbreviated GAPP. These principles are the foundations that accounting rules are based.
- Beginning balances for fixed assets in the Town Notes to the Financial Statements didn't agree with last year's ending balances.
- Instances where numbers in Notes did not agree with the Town Financial Statements
- Several instances where numbers did not sum to the amount shown.
- Notes to the Financial Statements listed old CIRSA financial statement numbers (same amounts were used in our 2007 and 2008 financial statements).

Dot stated as a former auditor, she is embarrassed of the overall lack of quality and attention to detail in the draft. She feels that he didn't even review the draft before submitting it. She stated that she is also concerned about the possibility of errors that she didn't discover. The quality of the draft is representative of the overall quality of audit received and the amount spent. She commented that she strongly feels that the Town needs to look closely at getting a new auditor this year.

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Dot submitted financial statements through April, which represent 33% of the year. In most instances, the Town is right on target for the year and, with the exception of the sewer issues, the Town hasn't encountered any unforeseen expenses. At the end of April, the Sewer Fund has a negative balance of \$84,867 in combined cash. However, a \$237,000 EPA grant for the Sewer Fund was received at the beginning of May which created a positive pooled cash balance and corrected this problem.

The Town has received city and county sales tax figures for January through May. Overall for 2010, the combined city and county tax revenue is down 8.7% or \$40,360 from this time last year. City sales tax for May was up 13% from April 2010 collections and down 14% from April 2009. County sales tax for May was up 1.6% from May last year and 11% from April 2010.

Year to date the Town has collected city and county sales tax of \$424,633.

Dot stated that Michael Branch will be presenting the audited financial statements at the June 15th Town Board Meeting. An electronic copy of the audited financial statements will be included in the Board packets at that time.

Gabe asked if the previous year's audits are going to be corrected.

Dot answered that she's primarily focusing on making sure that the 2009 audit is correct. She looked at the previous years just to see if these same errors had been done in those years as well.

Dan stated that he is very disappointed that the auditor is not performing up to the task. He feels that the Board needs to consider another alternative very seriously. He stated that he appreciates Dot stepping up and bringing these issues to the Board's attention.

Action Agenda Item #4: Sewer Influent

Justin Clifton gave his staff report. He stated that Ron has recently expressed concerns over increased influent loading data at the sewer plant. Ron has expressed those concerns primarily in light of the once anticipated brewer that was going to take over Steamworks. Despite the fact that this deal is now off, there remains concern that if Steamworks continues to operate the facility that the Town runs the risk of exceeding their permitted capacity.

Justin Clifton stated that this is a very complicated issue to understand and address. For 4 years, he has worked with Ron, engineers from the State, wastewater and environmental personnel with the Tribe, and at least 3 other engineers and wastewater experts to try to clearly identify and solve problems with high loading. These efforts have resulted in a pretreatment program at the Riverside RV Park, Bayfield Schools and the Aspen Plaza commercial center. The Town has also installed numerous sampling ports to existing business are required additional ports and grease traps with the construction of any new building. The Town has invested large sums of money and time into sampling and onsite inspections. These efforts have yielded results but they have never been enough to explain exactly where all of the high loads come from and how to mitigate them.

Justin Clifton commented that although the Town's influent (wastewater coming into the plant) numbers have increased over the last two months; the Town is still operating well below permitted capacity. The permit is for 1580 lbs per day of organic loading and the influent numbers have climbed from about 375 lbs per day to almost 600 lbs per day from March to May. The goal right now is to figure out why the loading is increasing and how to prevent it from happening.

One of the ways to attempt to discover the source of these problems is to formulate a hypothesis and test it. Ron has basically done that by expressing his concerns about Steamworks. However, testing this hypothesis creates many more questions than answers. It makes sense to look toward Steamworks when considering the assumption that they were "shut down" for the 7 months that the numbers looked really good. However, a closer look at water records indicates that this might not be an obvious fit. Steamworks was using close to 90,000 gallons of water per

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month back in Oct of last year. In the last two months, when Steamworks has been considered to be part of our problems, they have used 14,000 to 20,000 gallons of water.

Unfortunately there is no identifiable correlation between the amount of water used by Steamworks and the impact to the system. That does not mean that Steamworks is not responsible for some or even all of the spikes in loading, it simply means there is more work to do in understanding these numbers.

Justin Clifton stated that he feels that it would be beneficial to invest more time and money into getting a better understanding of what's going on with the sewer numbers. He feels that the Town needs to be careful about how they approach this because the Sewer Fund is being stretched financially as it is. However, the Town doesn't want to get into a situation similar to the past where the influent loading jumps from 400 lbs/day to 1200 lbs/day because that would mean that the plant was running at 80% capacity and the Town would be expected to begin planning for expansion. If the Town can figure out a way to keep influent closer to 400 lbs/day it will delay costly expansion of the sewer plan for many years.

Justin Clifton stated that he and Ron would like to pursue a new round of discussions with wastewater engineers and perhaps conduct another round of sampling. This would give them a lot of information about how well the pretreatment systems are running and might further explain the impacts from suspected high contributors such as Steamworks. The plan would be to engage in this work as funds permit with a close watch on any other needs in the Sewer Fund.

Dan asked if the Town has been able to eliminate the possibility of irrigation infiltration, breaks in the lines, and/or illegal dumping.

Ron answered that illegal dumping is probably always going to be a problem and there is approximately 150,000 gallons of possible infiltration happening because of the irrigation ditches that needs to still be addressed.

Justin Clifton stated that the Town did see a substantial improvement when the pre-treatment systems were put into place. But they still need to look for other likely sources.

Justin Talbot asked for there is a method for checking BOD's.

Justin Clifton that there is a method at the plant but it isn't possible to monitor each site consistently. The staff would like to pay somebody with sophisticated equipment that will monitor the flow at the same time as collecting the sample. This will give the Town a greater confidence in the samples that are being received. Justin Clifton stated that he figured out when the Town was building the plant that it was about \$5,000 per pound of loading per day to invest in the new plant. Therefore, if the plant loading jumps substantially the costs also increase exponentially. The most cost effective way is to manage the flows coming into the plant rather than doing expansions.

Ed asked what the Board needs to do on this item.

Justin Clifton answered that he would like for the Board to approve staff to prioritize funds that are already budgeted and spend some of those funds in the best manner possible.

Justin Talbot clarified that the staff is only asking to use funds that are already budgeted; they would just be used in a different manner than how they were allocated.

Justin Clifton stated yes. The staff will only be using budgeted funds and it will be monitored very closely.

Justin Talbot commented that he would like to see the staff move forward on this project.

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Ed mentioned that purchasing the camera is already budgeted. He asked if the Town should go ahead and purchase that camera.

Justin Clifton answered that the staff would really like to purchase the camera but they are being really cautious with funds in Sanitation and will make a decision on whether or not that purchase is a priority.

Justin Clifton stated that he will get together a team of people that are knowledgeable in this area, come up with a plan, present that plan to the Board and then move forward with it.

The Board agreed to move forward with that action.

Action Agenda Item #5: Mesa Water Valve

Justin Clifton gave his staff report. He explained that the Board instructed staff to work toward replacing a broken water valve at the intersection of 160B and Mesa Avenue. The water valve supports water infrastructure in the area and was also examined during the Fire Departments ISO re-rating. The valve needs to be replaced and the Town has money available in the water fund to complete the project. Staff was instructed to get an engineers cost estimate and bring back information to the Board to consider the level of Board participation in the project.

Justin Clifton stated that a preliminary opinion of cost and a drawing indicating the work that needs to be done has been created. The precedent of the Board has been to receive updates only for projects of this size. This would mean staff would approve bids, award contracts and oversee the project. In part this precedent is used to ensure the project can be completed in a timely manner without waiting for meetings to make decisions. Justin Clifton commented that he is seeking direction from the Board to move ahead and input on how involved the Board would like to be with this project. Staff is in the process of obtaining a CDOT permit to hydrant-vac portions of the water line north of Highway 160B in order to make final determinations of line location and boring infrastructure.

Dan stated that he thinks that the Board should give authority to the staff to oversee the project and allow them to move forward as they see fit up to \$75,000.00 allocated. He feels that if the project exceeds that dollar amount that the Board needs to be advised.

Gabe agreed that Ron & Justin Clifton should be granted the authorization to oversee the project.

Justin Talbot stated that he would like to see the bids.

Justin Clifton stated that his plan will be to accept bids, award the bid to the lowest qualified bidder, and then present the bid tabulation to the Board for them to see. The actual bids will be available at Town Hall for review by any of the Board members.

Gabe suggested advertising this project in Grand Junction.

Action Agenda Item #6: Ballot Questions

Justin Clifton gave his staff report. He stated that a group of citizens in Colorado has secured the required petition signatures to put two amendments and one proposition on the ballot during the November election. The two amendments would be additions to the Colorado Constitution and would therefore be very difficult to change with legislation. The proposition would become a legislative law and could be amended by lawmakers.

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All three ballot questions aim to lower taxes and change taxing structures and authorities in Colorado. While lowering taxes is bound to be very appealing to many Colorado voters, all of these ballot questions have devastating effects on local governments including counties, municipalities, school districts and special districts. Although the Board must be careful about taking positions on statewide elections because of the Fair Campaign Practices Act, the Board needs to become aware of these ballot questions and its ability to take a position as a Board or as influential individuals in the community.

Justin Clifton commented that the Colorado Municipal League (CML) has done a good job outlining the basics of each question and the impact it will have on local governments which they have put into report form. The CML report also includes websites for and against the measures. Staff is reviewing this information in light of specific impacts to the Town of Bayfield.

Justin Clifton also presented a summary document to the Board regarding the effects of proposition 101 on La Plata County, put together by the Bell Policy Center. The Colorado Government and Finance Officers Association (CGFOA) has a template for further understanding impacts to the community. Justin Clifton stated that he will continue to pass on information on these items as he receives it. He also mentioned that there will be a meeting on June 10th, 2010 @ 5:00 p.m. to discuss these matters.

The Board asked Justin Clifton to include this matter on the Board retreat agenda to discuss further.

Action Agenda Item #7: Business Licenses Delinquencies

Marianne gave her staff report. She stated that the Town currently requires that any company doing business within the Town limits to have a Bayfield business license. The Board decided during the 2009 Budget Workshops to increase business license fees to \$45.00 plus an additional \$10.00 per employee for each additional employee over two.

However, the current code does not give any leverage for those businesses that are delinquent in paying their business license fee or the businesses that are operating without a valid business license. Staff would like to add some language & fees to the code that will help with the enforcement of business licensing.

Business licenses are due by the 15th of January and notices are sent to all valid business license holders during the month of November. This gives companies over a month and a half to pay the license fee. However, there are 36 businesses that are delinquent in paying their fee for 2010. Staff has sent 4 notices to these businesses without any sort of response.

Staff also has an issue with businesses that are conducting business without a valid business license. The code states that all business must have a business license when operating within Town limits; however, there's no penalties listed if a business is caught operating without a license so it makes it difficult to enforce.

Marianne stated that staff is proposing implementing a \$50.00 delinquent fee for any business that is late purchasing their business license. If the Board agrees to this fee, staff will send out a letter to the 36 accounts that are currently delinquent for 2010 stating that they need to pay their fee by July 1st or the delinquent fee will be assessed. Beginning in 2011, staff will state in the renewal letter that the fee must be paid by January 15th or a delinquent fee will be assessed.

Staff is proposing 4 different options for handling the businesses that are operating without a valid business license.

- 1) Charging An Operating Without A License Fee Of \$100.00
- 2) Charging An Operating Without A License Fee Of \$100.00 plus \$50.00 per day until a license is purchased

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- 3) Charging An Operating Without A License Fee Of \$100.00 plus \$50.00 per day until a license is purchased and the business is red tagged (shut down and not allowed to conduct business) until the license is purchased.
- 4) Putting language into the code that states that anyone who violates this provision is guilty of a misdemeanor and can be tried through the Bayfield Municipal Court.

Justin Clifton stated that he would really like to implement a penalty plus a per day fee for violations. This would make it progressive for those offenders who refuse to pay their business license fee. He stated that the staff would instigate 3 points of contact with the delinquent business and if no progression is made the penalties will be assessed.

Dan commented that he is in favor of a penalty but he feels that \$50.00 per day is too high. He feels that an additional 10% monthly fee would be sufficient.

Gabe stated that he also feels that business licenses should have to be posted in a visible location. He stated that he would like for staff to put together an ordinance for the Board to review at the next meeting. He would like it to be approximately \$20.00 per day, include 3 points of contact with the delinquent business, and require that the license be posted in a visible location.

Dan suggested waiting until there is a full Board to discuss this item. He also feels that even \$20.00 per day is too expensive. He would like to see a monthly percentage fee instead of a per day fee.

Justin Clifton stated that he will come up with some ordinance language and some additional options to present to the Board at the next meeting. He reiterated that the reasoning for this is not to ding businesses in Bayfield, just to motivate them.

Action Agenda Item #8: Retreat Discussion

Justin Clifton gave his staff report. He stated that the Board typically tries to have an annual retreat to discuss changing priorities for the upcoming year. This has been especially important when there is an election year where there have been significant changes in the makeup of the Board. Although there are not significant changes to the makeup of the Board, there have been significant changes in the way business is conducted due to changes in personnel, impacts from the down economy and changing priorities.

Justin Clifton asked the Board for direction on what day would be best and what items they would like to discuss. He requested to receive input by the next meeting so that he can create the agenda.

Gabe commented that he thinks that these retreats are very productive for the Board.

Ed stated that he will be out of Town August 27th – September 3rd.

Dan suggested that he would like to see the Board adopt a mission statement for the budget process for a 3 year period. He would like for it to address how aggressive the Board is going to be with spending money, saving money, doing projects, etc. He feels that this would help get the Board all on the same page.

The suggested date for the retreat was August 21st.

Ed suggested including discussion on the GIS system and consultation with the Chamber Of Commerce to help encourage economic development within Bayfield.

Gabe commented that he would like to discuss managing the services that are provided by the Town.

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Action Agenda Item #9: New/Unfinished Business

Justin Clifton mentioned that the County Commissioner Breakfast will be held on June 10th @ 7:30 a.m. at the Double Tree Hotel in Durango. He also mentioned that the presentation on the ballot questions will be held on June 10th @ 5:00 p.m. at the 9R Conference Room in Durango. There is also a tentative date for a community municipal summit of July 27th.

Justin Talbot asked for a full report regarding the ISO re-rate.

Ed mentioned that he will be out of Town on June 10th and won't be able to attend the meetings. He also asked if the Town is going to send out a Request for Proposals for a new auditor.

Justin Clifton answered that staff will be issuing it during the summertime so that the cost can be incorporated into the 2011 budget.

The meeting was adjourned @ 8:54 p.m.

Minutes were approved as amended on July 6th, 2010.

Approved:

Rick K. Smith
Mayor

Marianne Jones
Town Clerk