

**Town of Bayfield
Regular Town Board Meeting
December 16, 2014
1199 Bayfield Parkway, Bayfield CO 81122**

Town Board Members Present: Trustee Morlan, Trustee Nelson, Trustee Nyberg, Trustee Sanders, Mayor Smith

Town Board Members Absent: Trustee Davenport, Trustee Salka

Staff Present: Chris La May (Town Manager), Kathleen Cathcart (Town Clerk), Joe McIntyre (Marshal), Jeff Robbins (Town Attorney)

Media Present: Carol McWilliams with the Pine River Times

The meeting was called to order @ approximately 7:00 p.m.

Roll Call: 5 present 2 absent (Trustee Davenport came in after the approval of the minutes)

Pledge of Allegiance:

Approval of Minutes: Trustee Nelson made a motion to approve the minutes from December 2, 2014, as presented. Trustee Morlan seconded.

All were in favor.

Motion passed unanimously.

Approval of Bills: Trustee Nelson made a motion to approve the bills dated December 3, 2014 through December 11, 2014, as presented. Trustee Nyberg seconded.

Roll call: 6 – 0

Motion passed unanimously.

General Public Input: Mr. Teddy Jack, 542 W. North Street, stated that he believes the Town is wasting money by replacing the Twin Bridges on Bayfield Parkway. Mr. Scot Trinklein, 1848 Bayfield Parkway, asked if the Town had researched the possibility of restoring the bridges instead of replacing them. Ms. Carol McWilliams stated that she did not see anything mentioned in tonight's agenda regarding the Willow Flycatcher Habitat that the Town built ten or twelve years ago in the area of the Little Pine Park.

Town Updates: Trustee Morlan asked if there were funds budgeted to work with Downtown Colorado Inc. Town Manager La May stated that there is \$5,000.00 in the budget for this project.

Public Hearing: Town Manager La May stated that staff is requesting a supplement to the General Fund of \$60,000.00 and \$25,069.00 to the Special Improvement District Fund.

No comments were offered.

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Action Agenda Item #1: Consideration of Resolution 327, A Resolution of the Town of Bayfield, Colorado Adopting a Supplemental Budget for the Calendar Year Beginning on the First Day of January 2014 and Ending on the Last Day of December 2014 and Appropriating Additional Sums of Money to the Various Spending Funds for the 2014 Budget Year

Trustee Davenport made a motion to approve Resolution 327, a resolution of the Town of Bayfield, Colorado adopting a Supplemental Budget for the calendar year beginning on the first day of January 2014 and ending on the last day of December 2014 and appropriating additional sums of money to the various spending funds for the 2014 Budget Year. Trustee Nelson seconded.

Roll call: 6 – 0

Motion passed unanimously.

Action Agenda Item #2: Consideration of Approval of Quitclaim Deed for Tract of Land in Front of 520 W. North Street and Acceptance of Quitclaim Deed for Portions of W. North Street

Town Manager La May stated that the Board of Trustees and staff went through a similar exercise with the property owner of 550 W. North Street. The County gave the Town of Bayfield a quitclaim deed for the Old Bayfield County Road. Staff has been working with property owners to clear up the encroachments this right of way has caused. Basically, the Town would be giving these residents their front yards back but in exchange staff would like to insure that these properties do not have any rights to W. North Street. Staff is asking the property owner for a quitclaim deed in return for the 60' right of way of W. North Street. This means that if it was discovered during title work that the property owner had any rights to property within that area they would be foregoing those rights. Staff does not believe, at this time, that any rights exist but a quitclaim deed would make ownership official. The quitclaim deed that the Town would be providing is to vacate our rights to property that is in front of 520 W. North Street, which is currently being utilized as their front yard. In the past with 550 W. North Street the Town exchanged \$00.40 per square foot for the quitclaim deed. Staff is asking the Board if they would like to apply the same requirement of \$00.40 per square foot for this quitclaim deed.

Mr. Trinklein stated that he was aware of the issues regarding property lines when he purchased the property at 520 W. North Street. He also stated that when he began the process of asking the Town of Bayfield for a quitclaim deed for the property located in front of 520 W. North Street, he was asked for a quitclaim deed to W. North Street. Mr. Trinklein feels that this should be considered a trade, one quitclaim deed for another. He does not feel that he should have to pay for the quitclaim deed he would be receiving.

Town Manager La May stated that the Town of Bayfield does have a quitclaim deed that establishes some rights to the Old Bayfield County Road. There is no evidence of any document that suggests that property owners have any ownership rights to W. North Street. Asking for a quitclaim deed to W. North Street is just an opportunity to clean up property lines, because there is no platted street for W. North Street.

Trustee Morlan asked if doing nothing was an option.

Town Attorney Robbins stated that nothing had to be done. A current road is in place and the Town's needs are met. This process would just clean things up for the property owners.

Mayor Smith asked if the Town received the \$00.40 per square foot in exchange for the quitclaim deed for 550 W. North Street.

Town Manager La May stated that the Mayor was correct.

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Mr. Trinklein stated that he believes his situation is different compared to the owner of 550 W. North Street. He stated that he asked the Town of Bayfield for a quitclaim deed and in exchange the Town asked him for a quitclaim deed to W. North Street.

Town Manager La May stated that the Town did not receive a quitclaim deed from the property owner of 550 W. North Street. While going through this process staff has learned that these quitclaim deeds would be beneficial if there was ever a need to clear up W. North Street. Town Manager La May also stated that Mr. Trinklein had the survey work prepared and the Town Surveyor reviewed it. Staff had the Town Attorney, Jeff Robbins, draft the quitclaim deeds that have been presented tonight.

Trustee Nelson stated that she did not feel that she had enough legal information to make a decision.

Mayor Smith asked if it would be appropriate to ask for an Executive Session, at this time.

Town Attorney Robbins stated that the Board could move to Executive Session at any duly noted meeting. It is better practice to post the Executive Sessions but under State Statutes the Board has the right to Executive Session providing one of the six Executive Session Prongs apply. In this case the session would apply under Legal Advice and Negotiations.

Trustee Nelson made a motion to move into Executive Session under CRS 24-6-402(4)(b) to include Town Manager La May and Town Attorney Jeff Robbins for legal advice concerning 520 W. North Street. Trustee Morlan seconded.

Roll call: 6 – 0

Motion passed unanimously.

The Board adjourned to Executive Session at 7:27 pm.

The Board came out of Executive Session and resumed the regular meeting at 7:40 pm.

Mayor Smith stated that no decisions were made during the Executive Session.

Mayor Smith stated that he would prefer to maintain the precedence set with the property owner of 550 W. North Street. In that instance the Town charged the property owner \$00.40 per square foot in exchange for the quitclaim deed.

Trustee Morlan stated that the Town does not have to do anything.

Mayor Smith stated that Trustee Morlan was correct. The Town is not in a position that anything has to be done. It would be in the best interests of the property owner if an agreement is made.

Mr. Trinklein stated that the property owner of 550 W. North Street was not asked to sign a quitclaim deed to W. North Street. Because the Town asked Mr. Trinklein to sign a quitclaim deed to W. North Street he feels that this should be an even swap.

Trustee Morlan stated that after looking at the situation and in abundance of caution this is the wise step for the Town to take.

Mr. Trinklein asked if he will actually get title to the land that the Town is going to quitclaim.

Town Attorney Robbins stated that the citizen will receive a quitclaim deed from the Town, which divests the Town of any and all rights it may have to the property. Quitclaim rights are ownership rights to this property. To

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the Town's knowledge there is no one else that has ownership rights to this property. The Town will be giving Mr. Trinklein all of the ownership rights that the Town has to this property. Mr. Trinklein will now own the property and be able to do with the property as he wishes.

Mayor Smith stated that the Board has two choices. We can do nothing, or we can clean this up as best as we can with quitclaim deeds. We can also choose to apply the same value of \$00.40 per square foot to the property, as was done with 550 W. North Street.

Trustee Nelson stated that this is a difficult decision but after hearing legal advice, she would agree with staff's recommendation.

Trustee Sanders and Trustee Nyberg stated that they would agree with staff's recommendation.

Trustee Morlan made a motion to approve the quitclaim deed from the Town of Bayfield to Scot Trinklein and Lynn Matievich for sections of the Old Bayfield County Road and approval of quitclaim deed from Scot Trinklein and Lynn Matievich to the Town of Bayfield for W. North Street, contingent upon receipt of payment of \$1,299.24. Trustee Davenport seconded.

Roll call: 5 – 1 (Trustee Morlan voted against)

Motion passed.

Action Agenda Item #3: Discussion and Possible Action Designating Location for Wetland and Southwest Willow Flycatcher Habitat Mitigation Efforts

Town Manager La May stated that this is related to the Bridge Replacement Project. Because we will be working in the flood plain, we will be required to have a permit from the Army Corps of Engineers. This process requires us to look at the environmental impacts of the project. The Town's Environmental Consultant will submit a Biological Assessment and the Army Corps of Engineers will review the assessment. They will either concur with our consultant's assessment and recommendations or reply with additional requirements for the permit. The Town's consultant has identified what they believe will be the impacts as it relates to wetlands, the Willow Flycatcher and Stream Credits. The Army Corps of Engineers has a priority list as it relates to wetlands. On the top of that list is the Wetland Bank, where you purchase established wetlands, down to offsite wetland mitigation that requires a five year monitoring period. At the end of that five year period you are required to demonstrate that a successful wetland was created. If the Town were to purchase from the Wetland Bank this would not also qualify as Southwest Willow Flycatcher Habitat. Town Manager La May presented the Board with a spreadsheet demonstrating costs associated with different options for both impacts. Three properties have been identified as possible locations to establish wetlands and Willow Flycatcher habitats; Little Pine Park, the newly acquired school property or the decommissioned area south of the Waste Water Treatment Facility. Staff is looking for the Boards opinion on which property they would prefer using. When Eight Corners was constructed, Willow Flycatcher mitigation was required. At that time, Willow Flycatcher habitat was created in Little Pine Park. This habitat could be expanded.

Trustee Morlan stated that he was on the Board when Eight Corners was constructed and the Willow Flycatcher Habitat was created at Little Pine Park. He also stated that he recalled having some credits remaining for wetland construction.

Town Manager La May stated that he was not aware of any remaining credits, but he would look into it.

Mayor Smith stated that he would prefer to use the location at the Little Pine Park and not encumber any other land.

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Town Manager La May stated that he would look into the possibility of credits remaining from the Eight Corner Project and utilize them, if they are available. If not, staff will look at mitigating less than ½ of an acre at Little Pine Park.

Action Agenda Item #4: Board Reports (SWCCOG, LPCEA, RHA, SWTPR, Region 9, Other)

Trustee Nyberg stated that the Planning Commission meeting was canceled.

Trustee Morlan stated that the Seniors would be hosting a Christmas luncheon this Friday.

Trustee Nelson stated that SWCCOG approved their 2015 Budget. The Recycling Planning Grant is almost complete. Other entities are being incorporated in SWCCOG but they are keeping their own boards and representation.

Mayor Smith stated that the biggest thing with LPCEA is the Airport Presentation.

Town Manager La May stated that RHA adopted their 2015 Budget. RHA also discussed the process in which funds are exchanged between the La Plata Homes Fund and RHA.

Trustee Sanders stated that Region 9 had three loans that were paid in full and three new loans that were approved. The Loan Committee will meet again tomorrow to consider three new applications.

Town Manager La May stated that the update for SWTPR was included in tonight's Board Packet.

Action Agenda Item #5: New/Unfinished Business

Trustee Morlan asked what is being done about forming a committee to promote a Sales Tax Increase at the next election. He also asked if the Town could legally run an advertisement in the paper, asking for participation in a committee to campaign for this increase.

Town Attorney Robbins stated that at this point the Town can do what they want as far as advertising and forming committees to promote a tax increase. The Fair Campaign Practices Act constraints are not in effect until the Board votes to put something on the ballot.

Trustee Morlan asked if Town Manager La May would put something in the paper, asking for participation of residents.

Town Manager La May stated that the Board could potentially hand pick committee members.

Trustee Morlan stated that he had a couple of people in mind to recommend for the committee.

Town Manager La May stated that it was his intent to present the Board with some potential revenue sources and potential expenditure reductions.

Trustee Nelson asked if staff should be posting the possibility of an Executive Session on every agenda.

Town Attorney Robbins stated that he likes the idea of publicly noticing the Executive Sessions that you know are going to happen.

Meeting was adjourned at 8:22 pm.

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