

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

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

Town Board Members Absent: Ed Morlan

Town Board Staff Present: Justin Clifton (Town Manager), Dirk Nelson (Town Attorney), Marianne Jones (Town Clerk), Elizabeth Jackson (Intern), Ron Saba (Director of Public Works),

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

The meeting was called to order @ 6:03 p.m.

Public Hearing: Medical Marijuana Dispensaries

The Mayor explained the process for the public hearing.

Justin Clifton gave his staff report. He outlined the reason this decision is being made by the Town Board, suggested ground rules for discussion of the item, & other information regarding the process.

The item was opened for Public Comment.

Dottie Lawrence (1052 N. Cedar Drive) stated that she is not in favor of smoking marijuana recreationally but she is in favor of Bayfield allowing dispensaries. She explained that her daughter-in-law died of pancreatic cancer and marijuana was the only thing that gave any relief. She feels that cancer patients should be able to get the medicine that they need to help relieve the pain.

Robin Evans (390 Mountain View Drive #23) stated that she became a medical marijuana patient in 2005 due to a lumbar fusion in her back. She explained that she was on a lot of medications and in a lot of pain. Due to marijuana use, she was able to participate in her physical therapy and had a very successful recovery. She reiterated that marijuana is not a pharmaceutical, it's an herb. She asked the Board to consider allowing dispensaries in Town because she doesn't think that it's fair to ask patients to drive to Durango.

Michel Theriot (5289 County Road 509) said that she is not a user of the drug but feels that Bayfield is growing and that this type of business will be located in Town eventually. She feels that it would be good to have a dispensary located in Town for those residents that need it.

David Wells (164 Los Pinos Drive) explained that he is one of the applicants that has requested the right to open a dispensary in Bayfield. He gave a petition to the Mayor with signatures in favor of the dispensary. He explained that there are a lot of people who feel threatened by the use of marijuana but he reminded the Board that this type of business is a constitutional right in the State of Colorado. He explained that medical marijuana is already being delivered into Bayfield and that it would be better if it was housed in a governed secure location.

Christine Sterling (124 S. Mesa Avenue) said that she is not in favor of the dispensary in Bayfield. She explained that the federal government considers marijuana an illegal drug and it is not being regulated by the FDA. There are also no regulations on cultivating locations nor does it have to meet any of the standards that any other legalized drugs are forced to meet. She reiterated that she is not for dispensaries being located in Town.

Joe Mozgai (402 Dove Ranch Road) stated that he is against medical marijuana being located in Town. He said that it's being called medical marijuana but it ends up being used recreationally. He said that he has heard that it will generate more revenue for the Town if it is allowed but he feels that it would be a "sin tax". He reminded

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

the Board that there are no doctors currently located in Bayfield so residents are pretty used to having to drive to Durango for these types of things.

Jonah Smith (9397 County Road 502) mentioned that the FDA drugs that are approved have a significant amount of side effects. He commented that marijuana is a better alternative for a lot of patients because it does not have these adverse side effects.

Kendra Whitaker (120 Sandia Circle) stated that she is a clinical herbalist and plant professional. She stated that she has been practicing herbal & plant medicine for over 30 years and she feels that marijuana is another type of plant medicine. She said that she doesn't care if Bayfield has a dispensary but she does want to make sure that her patients have access to it when they need it. She commented that people are using this medicine regardless and they are doing it criminally. She suggested that allowing this type of business would bring in more sales tax revenue to help offset some of the other needs in the community. She said that parents need to educate their kids on marijuana but the drug is going to be available regardless of whether or not there is a dispensary located in Town. She reiterated that she feels that marijuana is just another plant medicine and that it should be available in Bayfield.

Mary Swapp (87 Spur Lane) said that she feels that there is a need for regulated medicinal marijuana. However, she feels that there are a lot of questions regarding the legalities of medical marijuana that need to be sorted out before allowing or disallowing dispensaries in Bayfield. She suggested that the Board delay this decision for 6 months or a year until some of the questions are answered through the legal system.

John Beebe (445 Elk Valley Road) commented that there has been a lot of articles in the local newspapers regarding the regulations or lack thereof for medical marijuana. He read from the opinion section of the March 28th edition of the Denver Post regarding House Bill 1284. He suggested that the Board should not pass an ordinance in Bayfield until the state legislation is determined.

Barbara Wickman (900 Pine River Ranch Circle) said that she feels that marijuana is a valid medical treatment for various disorders and she does think that the people with those disorders should have access to the treatment. However, she does not think that a dispensary should be located in Bayfield until the drug is more widely regulated through the FDA. She doesn't feel that there is a good enough control & precautions in affect yet. She also mentioned that she feels that medicine should come in an unattractive form instead of bakery products that can be easily consumed by children. She reiterated that she is opposed to allowing dispensaries in Bayfield until the FDA has set up standards for regulating it.

Scott Kujath (274 Meadowbrook Drive) stated that his biggest concern is the amount of dispensaries that have already went into business versus the number of medical cards that have been given out. He doesn't feel that the numbers add up economically. He worries that the dispensaries are selling large quantities or they are selling to those who don't have the medical card. He said that he doesn't think that Bayfield should bring in a business that could potentially be unethical in its dealings.

Gilbert Shawcroft (352 Buckhorn Road) commented that there is a lot of concern about dispensaries being robbed; however, the majority of dispensaries in Colorado have video and audio surveillance 24 hours per day. He also mentioned that there are a lot of people who have medical cards that won't admit it because they are afraid of the ramifications from their peers. He feels that people in Bayfield need to be able to get their medicine without having to drive to Durango. He suggested that Bayfield should look at the regulations that Durango has put into place for their dispensaries and follow their lead.

Dennis Svanes (870 Westview Drive) said that he chose to live in Bayfield because it is a family friendly community. He commented that he and his wife have taught their children not to use drugs and he feels that this will send the wrong message to the kids of the area. The State of Colorado has legalized medical marijuana but the federal government has not. He encouraged the Board to vote against dispensaries or wait until more legislation occurs regarding the matter.

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

Dave Anderson (1534 County Road 526) stated that he is the owner the building that is the proposed location for one of the dispensaries. He has spoken to the other residents in the building and they expressed that they do not have a problem with this type of business coming into that location. He feels that there will be a very small amount of people coming into the store because they can only sell to a very small portion of the community. He suggested that denying this store in Bayfield would send those patrons to Durango and Bayfield will lose out on the sales tax revenue. He said that he thinks Bayfield should allow its residents to get the items it needs in their own Town.

Betsy Romier (1215 Beaver Creek Drive) said that she has been a registered nurse for 45 years and she has no problem with people using marijuana that really needs it. However, she mentioned that it is a drug and there is a plethora of dispensaries in Durango who will deliver to residents in Bayfield. She feels that there are a lot of unknowns regarding dispensaries and it's already too easy to obtain this drug currently. She thinks the Town should wait until there are more guidelines in place to regulate it.

David Black (606 Buck Hwy) stated that medical marijuana dispensaries are legal under the Colorado State Constitution and he feels that the Town Board should consider allowing them in Town. He commented that marijuana is recognized as a medicinal herb and selling it would increase the sales tax revenue for the Town substantially. He also suggested that the Town should allow grow houses and implements a tax on it in order to generate another source of revenue. He thinks that it's a legal business and that there are a lot of residents in Bayfield who will benefit from it plus it would be a good revenue stream for the Town.

Joe Ford (1615 N. Mountain View Drive) asked the Board if they want to protect the children of Bayfield or if they want to make money. He then stated that he is opposed to having dispensaries in Bayfield.

Julia Hollingsworth (197 Buckhorn Road) stated the Bayfield is in the United States of America and one of the rights of living in the US is freedom of choice. She mentioned that Bayfield will be setting the stage for everyone else to have the opportunity to express their free rights to do what they are already doing.

Cookie Hoselton (142 Jacks Lane) said that she is not against people using marijuana who really needs it. However, she feels that it is being used and abused. She is also very concerned about children getting a hold of medical marijuana and she doesn't want it to be any easier assessable for children to get a hold of it. She asked the Board not to even consider the potential monetary gain that could be gained from allowing this type of business and just focus on the affect that it could have on the community.

Ray Wallace (3021 County Road 223) said that he is the Minister of Bayfield Church of Christ and he is for medical marijuana as long as it is by prescription only. However, he is opposed to dispensaries being opened in Bayfield. He feels that it is a moral issue that will have a negative effect on families as a whole. Also, people can get it if they need it because it is delivered to Bayfield free of charge so he doesn't feel that there is a need for a dispensary in Town. He also mentioned that it is still illegal under federal law and the Town should embrace something that is currently illegal federally. He also asked the Board if the money that will be generated in sales tax should be the almighty determination in the matter. He feels that the Town Board should vote against it and send a strong message to the community.

Al Wadley (49181 Hwy 160) asked if the Town has done a survey to find out how many people are in need of medical marijuana. He stated that he feels that marijuana is a door opener to other drugs and he is against allowing dispensaries in Bayfield.

Yvonne Lashmett (164 S. Los Pinos) said that there has been an argument that people can get medical marijuana from caregivers instead of dispensaries but she feels that this really limits patients choices. She stated that if they are able to get the drug from dispensaries they are able to get the right product for the type of ailment that they have. She also mentioned that the Bayfield Land Use regulates how many dispensaries can

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

be in Bayfield because there would be a limited area of where they would be permitted. She also stated that children will be able to get a hold of marijuana regardless of whether or not there is a dispensary in Bayfield.

Carolyn Cook (135 Pine Ridge Drive) asked the Board to determine a need for a medical marijuana dispensary before allowing one to move in to Bayfield. She also suggested putting a limit on how many should be allowed in Town. She then stated that she is totally against allowing dispensaries in Town.

Diana Wells (164 S. Los Pinos) stated that children will not be allowed in the dispensaries because no one under the age of 18 is permitted to enter the premises. However, she said that children are going to get marijuana regardless of whether or not there is a dispensary located in Town or not and that it should be up to the parents to educate their children. She also mentioned that allowing the dispensaries could definitely have a positive affect on the Town's sales tax revenue stream.

Debra Richardson (8296 County Road 510) said that she has a lot of body pain and she doesn't think that a person should have to take the amount of medication that she was prescribed to alleviate their pain. She stated that she thinks that the dispensing of marijuana does need to be controlled but that it should be allowed. She feels that the Town can put enough regulations on it to allow it.

Paul Romere (1215 Beaver Creek Drive) stated that he is against allowing dispensaries in Town.

Bertha Fritz (495 Hwy 160B) said that she is not against people using marijuana as a medicine but she doesn't think that Bayfield should allow a dispensary.

Hope Lopez (160 Los Pinos) said that she has a lot of medical issues and feels that it would be a great opportunity for Bayfield to allow this type of business

Greg Huster (265 Wildcat Lane) said that he believes there should be access to a dispensary for those people who need it. He feels that not having a dispensary limits people from being able to get marijuana in different forms. He also feels that it's up to parents to control what their children get into and have access to. He said that he thinks that the dispensaries will be highly monitored and regulated and the quality of the medicine will also be closely monitored. He expressed that having a dispensary in Bayfield is a celebration of freedom and would help Bayfield move in a positive direction.

Ty Grooms (4562 Hwy 160) said that there is a lot of money that is being made by allowing this type of business being allowed and the crime rates are not increasing in those areas. He doesn't feel that marijuana being in the same category as harder drugs such as heroin or cocaine and it is a non-lethal drug. He stated that people are not going to be overdosing on marijuana because it isn't something that happens with that particular drug.

Wendy Cox (184 Beaver Creek Drive) said that she is against having a dispensary in Bayfield. The reason she moved to a small town was because she liked the fact that she doesn't have to worry about this sort of problem. She stated that she feels that the Board has a responsibility to stand up and say that they don't want this type of standard in Bayfield.

The public hearing was then closed.

A short recess was called.

Regular Town Board Meeting:

The meeting was called back to order @ 7:27 p.m.

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

Minutes: Dan made a motion to approve the minutes from the April 6th, 2010 Regular Town Board Meeting as submitted. Gabe seconded the motion. All were in favor, motion passed unanimously.

Public Input:

Joe Mozgai (402 Dove Ranch Road) commented that Mill Street is in very bad shape.

Justin Clifton answered that the Town Board will be looking at allocating funds for road maintenance projects. Mill Street will be included in this repair program.

Betsy Romere (1215 Beaver Creek Drive) said that she was surprised that more people did not attend the Town Board meeting and expressed that she will begin attending them each month.

John Beebe (445 Elk Valley Road) stated that he doesn't live in Town limits but wanted to know if it's okay for him to attend the meetings and give his opinions anyways because the Town Board has a lot of influence over things that affect him.

Rick answered that anyone can attend the meetings and give their opinion.

Niel Hieb (368 East Schroeder Drive) suggested that he would like to see the Chamber Building opened and running this summer. He stated that it is a shame that the building is just sitting there empty without being used.

Barb Luebchow (4242 County Road 523) asked if there are any regulations for people selling merchandise out of the back of their vehicles.

Justin Clifton answered that anybody doing business in Bayfield is required to have a Bayfield business license.

Wendy Cox (184 Beaver Creek Drive) asked if it is possible for residents that live outside the Town limit to vote for Town Board members.

Rick answered that in order to be eligible to vote residents must reside within the Town limits per State Statute.

No more public comment was offered, that portion of the meeting was closed.

Action Agenda Item #1: Approval of the Bills

Tom made a motion to approve the bills dated April 30th, 2010 as submitted. Gabe seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #2: Town Updates

Justin Talbot asked Justin Clifton if he has made any progress on getting reimbursement for the hauling costs incurred due to the failure at the Gem Village Lift Station.

Justin Clifton answered that he is planning to get the extended warranty in place first and then he will send a letter sent to the CEO of the company, sales representatives, state representatives and any other parties involved to let them know the situation and request for assistance with the costs.

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

Dan asked if the Town has been able to fully identify all of the water leaks on the Roe water line to the new water storage tank.

Justin Clifton answered that the additional valves that were added were able to isolate the areas where there weren't leaks so the staff is down to 1 section that is being looked at for leaks.

Ron Saba explained that there is only one more section to be tested; the section closest to the tank. He hopes to test that section, get the bacti testing results and have the tank online by Friday.

Dan asked if all of the companies are standing behind their materials and their work for the Gem Village Lift Station.

Justin Clifton answered that he is still waiting on documentation. He is attempting to get a 2 year warranty for the lift station. Once the warranty is in place and fully executed, he is going to start pushing on getting reimbursement for the hauling costs.

Justin Talbot asked about getting estimates for road improvements.

Justin Clifton answered that he met with the engineer today and did a site visit. They are looking into a variety of options and he hopes to present those to the Board at the next meeting.

Michelle Nelson, the Planning Commission Chairperson gave the Planning Commission report to the Town Board.

Action Agenda Item #3: Medical Marijuana Dispensaries

Justin gave his staff report. He went through some paperwork that he had submitted to the Board in their packet including the following: Answers to Critical Questions, Summary of Ordinances/ Regulations Regarding Medical Marijuana Dispensaries, Memo from Marshal Choate, Summary of draft State House Bill 1284, City of Durango Ordinance allowing dispensaries, City of Winter Park Ordinance banning dispensaries, Proposed Town of Bayfield Ordinance submitted by the applicant, City of Greely Sales Tax Application

Rick asked if the legislation currently in place gives municipalities the option to deny dispensaries.

Dirk answered the all indications are that by adoption of an ordinance or a vote of the people it is possible for municipalities to disallow dispensaries. He also mentioned that the timing of this is very important. The current legislation is set to be effective as of July 2011. This gives the State ample time to set up the regulations. Dirk clarified that if the Board passes an ordinance to disallow dispensaries it is possible that it could be superseded by federal regulations that are put into affect. However, any dispensaries will have to go through a new licensing process governed by the State.

Dan thanked the staff for all of the effort put forth on this matter. He then stated that he feels that Bayfield is a family place and that the Town Board has the legal right to deny the application. He also stated that he doesn't think that revenue should be a determining factor in the decision and he expressed that he will vote no on allowing dispensaries in Bayfield.

Gabe stated that his opinion is not to allow dispensaries in the Town of Bayfield. He feels that the Town needs to think thoroughly review the House Bill when it is passed to see how it will affect the Town.

Tom asked what steps would have to be taken to have this item placed on the November ballot for the voters.

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

Dirk answered that if the House Bill passes there is a clause that allows municipalities to put the decision to the voters. The Board would need to extend the moratorium until after the results of the election.

Tom expressed that he is worried about lawsuits being formulated if the Board decides to deny dispensaries before the House Bill is passed. He feels that the Town should wait until the legislation is passed and there are more clearly defined rules and regulations.

Debbi responded that she also would like to see what happens with the State legislation. However, she would like to see the pursuance of the FDA dispensing through regular pharmacies. She expressed that she is leaning towards doing the same thing as Greely.

Justin Talbot stated that he is compassionate to the needs of those in chronic pain but he is worried about crime and the children in the community. He agreed with Debbi that he would like to do something along the same lines as Greely.

Rick commended the staff for their work on this matter and he thanked the people who sent emails and attended the meetings regarding this matter. He expressed that he sympathizes with those in chronic pain but he does not feel that he can support moving forward with allowing dispensaries because there is not enough guidance available on the matter. He asked about the difference between an ordinance being passed by the Town Board versus a ballot question that would be voted on and decided by the people.

Justin answered that if the Board passes an ordinance and they decide that there is a problem with it, the ordinance can be revised at any time. If the decision is taken to the voters, it is a concrete decision and there is no ability to adjust or revise it. .

Dirk expressed that the Town does have the ability to adopt a ban of dispensaries if they so wish according to the current legislation.

Dan made a motion that Town staff and the Town Attorney draft an ordinance prohibiting the opening or operation of medicinal marijuana dispensaries within the boundaries of the Town of Bayfield. Justin Talbot seconded the motion. All were in favor except Tom, who was opposed.

Tom expressed that he feels that Board should wait until the Senate Bill is passed before moving forward with an ordinance.

Action Agenda Item #4: Temporary Real Estate Offices

Justin gave his staff report. He said that Justin Talbot had mentioned the issue of a zircon trailer located in Mesa Meadows. When staff looked into this issue, they found two situations. One was a small mobile trailer being used by a local building who will soon begin building a home on the site. He has been asked to acquire a permit in accordance with the recently passed ordinance for temporary construction trailers.

The other situation that was discovered is a zircon unit that is being used as a temporary real estate office. The Town recently reviewed the temporary real estate office clause in the Land Use Code and it is limited to use of a model home. Therefore, this particular use is not allowed by the Town's Land Use Code.

Justin explained that Dave Gore and Paul Karmazn (realtors for the Mesa Meadows Subdivision) are requesting that the Board consider allowing the facility to stay in until the end of November 2010. Justin stated that he has spoken with Susan Caffarel, the Developer, and she feels strongly that having a presence in the subdivision is helping to sell lots, which in turn helps the Town to sell water and sewer taps and put local contractors to work.

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

Justin said that this issue is an interesting one as the whole issue of temporary facilities has just recently been brought to light. This kind of activity has occurred in the past, including the most recent example in Dove Ranch where a construction trailer was also used as a real estate office. Justin doesn't feel that the Land Use Code language stating that real estate offices have to be housed in a model home is feasible in a subdivision where numerous small builders are building homes one at a time. This is especially true in these economic times, where builders are not even building spec homes but are rather building most homes based on pre-sales.

Justin expressed that he feels that these policies in the Land Use Code are trying to strike a balance between the need to support a development project not yet complete and the desire of residents to have full enjoyment of their property.

The Town has an interest in facilitating completion of the development and supporting the local economy. He commented that it is reasonable to suggest that these facilities do exactly that by helping to put local builders to work. He also doesn't think there is any problem with the facilities if they don't offend local residents.

Justin asked the Board for direction on what they would like to see happen on this matter and then the staff can take the appropriate action to refer the issue to the Planning Commission and amend the Land Use Code. The floor was given to Susan Cafarrel, the Developer of the Mesa Meadows Subdivision.

Susan Cafarrel (14 Red Mountain) said that the subdivision has not sold any lots in over two years. However, the real estate office has been located on the premises they have had two closings and are hoping to have a couple more within the next couple weeks. The subdivision is in its 4th phase of development but there is only 1 home in that phase. She feels that this office has made a huge difference in the sale of lots. The office would remain in that location until November of 2010 and then it would be removed.

Paul Karmazyn (Jenkins Ranch) stated that he was not aware of the Town ordinance regarding this type of business in Bayfield. He said that this unit will remain on a very temporary basis and will be used as a hub for contractors to meet with future home buyers. He explained that the facility is not being used as a sales office full time, it has subdivision display boards, contractor info, land/home packages, etc. They hope to have the subdivision built out within a very short amount of time.

Dan asked if they have received any complaints from the neighbors.

Paul answered that he has not received any complaints and that the building is located far away from any finished rooftops with the exception of one.

Susan responded that she has not received any complaints either.

Gabe asked if the Planning Commission would need to grant a variance in order to allow this sort of facility to be located in the subdivision.

Justin answered that his recommendation would be to amend the code if the Board decides that this type of use is appropriate. The staff will draft an ordinance that would be reviewed by the Planning Commission for recommendation and then approved by the Town Board.

Tom made a motion that staff drafts an Ordinance to amend the Bayfield Land Use Code to allow temporary real estate offices to be located in residential areas under these circumstances. Gabe seconded the motion but added that he would like a 12 month time limit added to the motion.

Tom agreed to the amendment.

Debbi noted that she did receive a complaint about the zircon.

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

Justin Talbot also noted that he received a complaint as well.

All were in favor, motion passed unanimously.

Action Agenda Item #5: Highlands Drainage

Justin gave his staff report. He stated that the vesting for the Highlands at Dove Ranch was extended in November 2009 to expire in November 2010. The subdivision Final Plat has been approved pending resolution of the drainage issue. The extension that was granted in November 2009 was contingent on a drainage plan being resolved and reviewed by the Board, not just approved by the Town's Engineer. This decision was based on concerns that any drainage that was released to Yucca Estates (the historical location) would exacerbate an already significant drainage problem. The Developer of the Highlands had looked into the possibility of diverting flows to the east, but a plan was never completed due to numerous complicated issues.

The Developer would like to discuss drainage in an effort to resolve this issue so they can proceed with final design whenever they decide is appropriate. Justin explained that Jim Flint, Project Engineer, is seeking direction from the Board on which way they would like for the drainage to go.

The floor was given to Jim Flint, Project Engineer for the Highlands project.

Jim stated that he feels there is a lingering issue that hasn't been addressed in regards to the Highlands drainage. He explained that Highlands is in three different drainage basins. Initially it was determined that a drainage basin would be created and the drainage would spill out to its historical locations; however, in order to develop the basin three lots had to be encumbered which reduced the feasibility of the subdivision economically. The developer is trying to find a different resolution for the drainage in order to keep those lots from being encumbered. The developer decided that the best course of action would be to take the drainage to the eastside of the property but there are issues with making it happen. The Town Engineer stated that he could not support taking the drainage to the eastside due to several issues involved with it. Jim asked if the Board feels the drainage should be diverted to the eastside basin and how they would like the developer to proceed in this matter. He also stated that if the Board does feel the water should be diverted to the eastside if the Town would be willing to press the matter and help make it happen. Jim feels that this type of action would require governmental backing. He asked if the Town Board feels that it is in the Town's best interest to take an advancing supporting role with the affected property owners in this matter to force the drainage to go to the eastside.

Jim stated that it's a complicated situation because there are several different basins involved.

Debbi commented that the drainage would affect over 30 homes that could potentially flood due to this new development.

Dirk stated that the Town does not have jurisdiction over this issue. He explained that even if the Town wanted to take a stance, the Division of Water Resources would still be the determining factor because they have their own authority over the matter. The Town does not have the authority to compel a state entity to allow this sort of action. However, the Town could compel the developer to gain the needed easements from the downstream property owners to make this type of drainage solution work. But it would be up to the developer to get those easements. The Town also has the right to state that a developer cannot develop a project that will make a bad drainage system worse.

Jim responded that the original plan does meet the historic releases and fulfills the requirements.

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

Debbi stated that she is working on the engineering for the Southviews subdivision and she has always intended that part of the Highlands drainage will be moving into the Southviews drainage system and away from Town.

Jim responded that going through Southviews would definitely be an option but that he does not want it to be a mandate. He stated that he doesn't feel that they as the developer have the ability to obtain the needed easements through the downstream properties. He said that if that is a requirement of the Town, it could kill the project. He feels that it's not possible for the developer to get the requirement easements without backing from the Town. He asked the Board if it is possible to allow the drainage to release to its historical location as previously approved and end the drainage question.

Rick asked for Ron's opinion

Ron answered that Tamarack Drive cannot handle the historic flows and the new earthwork has changed the scheme of the drainage system. He explained that if the Town allows Highlands to release in the historic location it could cause problems on Tamarack. He feels that the ultimate solution would be to send the drainage through the Southviews Subdivision.

Justin explained that the developer is asking to release to the historical location which is onto Tamarack Drive. If the Board is inclined to have the drainage moved through the eastside development, the developer is asking the Town to take the lead in achieving another drainage solution. However, the Town does have the option to say that it will not take the lead and that it is up to the developer to figure out the drainage solution. He explained that the Board has three options. They can tell the developer that they have to figure out a way to divert the water and acquire the necessary easements to make it happen; the Board can say that it is willing to help acquire those easements, or they can allow the subdivision to release to the historical location at the historic rate.

Dirk reiterated that the Town should not take the lead in acquiring the easements because it would set a dangerous precedent. However; the Town could support the eastside solution when it is presented to the Division of Water Resources in order to help get their backing.

Rick agreed that the Town is not willing to take the lead on acquiring the easements so the developer has to choose whether or not to release to the historical location and deal with inadequate infrastructure or attempt to acquire the necessary items to divert the drainage to the eastside. He recommended figuring out which option he wants to use and then bring it back to the Board for approval.

Action Agenda Item #5: Liquor License Renewal - La Casita Restaurant

Dan made a motion to approve the liquor license renewal for the La Casita Restaurant. Gabe seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #6: Liquor License Renewal – Hong's Garden Restaurant

Gabe made a motion to approve the liquor license renewal for the Hong's Garden Restaurant. Tom seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #7: November Elections

Town of Bayfield
Regular Town Board Meeting
May 4, 2010
1199 US Highway 160B Bayfield, CO 81122

Justin gave his staff report. He explained that he has been approached by the La Plata County Clerks Office regarding the November election. The election is scheduled for November 2nd, the first Tuesday of the month. The clerk's office would like to know if they would if they can use the Town Hall Board Room as a polling place. They considered just using the room upstairs in Town Hall but this may not be enough space for a general election.

Justin stated that the Board has traditionally rescheduled meetings on election night. Locating a polling place at Town Hall would be much more visible than the old middle school, which could also enhance turn-out.

Justin asked for direction from the Board concerning its interest in rescheduling that November meeting and allowing the Clerks Office to use the Board room as polling place.

The Board agreed that the meeting will be rescheduled.

Action Agenda Item #8: New/Unfinished Business

Gabe asked for an update on the business that is moving into the Steamworks location.

Justin Clifton answered that everything is pending right now but he hopes to have some definitive information for the Board at the next meeting.

Tom asked for information on the Board acting as the Liquor Control Board to be included in the Retreat agenda.

Debbi stated that she would like to bring in a report on storm water management for the Board.

Rick requested that she present that report to both the Town Board and the Planning Commission.

Justin Talbot thanked Liz for all of the work she put into gathering the information on Medical Marijuana Dispensaries.

The meeting was adjourned at 9:53 p.m.

Minutes were approved as submitted on June 3^d, 2010.

Approved:

Rick K. Smith
Mayor

Marianne Jones
Town Clerk