

**Town of Bayfield
Regular Town Board Meeting
July 7, 2015
1199 Bayfield Parkway, Bayfield CO 81122**

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

Town Board Members Absent:

Staff Present: Chris La May (Town Manager), Kathleen Cathcart (Town Clerk), Joe McIntyre (Marshall), Erin Dunavant (Finance Director), Ron Saba (Public Works Director), Mike Goldman (Attorney)

Media Present: Carol McWilliams with the Pine River Times

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

Approval of Minutes: Trustee Davenport made a motion to approve the minutes from June 23, 2015 as presented. Trustee Salka seconded.

All were in favor.

Motion passed unanimously.

Approval of Bills: Trustee Nelson made a motion to approve the bills on the report dated June 24 through July 7, 2015, as presented. Trustee Davenport seconded.

Roll call: 7 - 0 (Trustee Salka abstained from voting on the bill to Absolute Rodent Control and Mayor Smith abstained from Data Safe Services)

Motion passed unanimously.

General Public Input: Mr. Ed Morlan gave an update on the efforts of the Sales Tax Committee. The committee has printed informational brochures, created a banner promoting the sales tax initiative, and also had a booth at the 4th of July event.

Town Updates: No comments were made.

Action Agenda Item #1: Bayfield Education Foundation – Barbara Wickman

Ms. Barb Wickman, President of the Bayfield Education Foundation, stated that the Bayfield Education Foundation was established this past spring. The organization is a 501(c)(3) registered with the State of Colorado. Their mission is to support, enhance and advance educational opportunities in and for the Bayfield community. Short term goals are to fill the gaps in the programs being offered now, such as summer school. They would also like to help reduce the fundraising fatigue in the community with a matching program, with funds raised by sponsoring larger events such as concerts to be held in the new facility at the high school. The Bayfield School District has passed a resolution stating that they will work with the Bayfield Education Foundation. This organization will benefit not only grades K-12, but all ages interested in furthering their education.

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Action Agenda Item #2: Discussion and Possible Action – Coordinated GOCO Grant with Pine River Library

Town Manager La May introduced Ms. Shelley Walchak, Director of the Pine River Library. Town Manager La May stated that the library is interested in expanding their services to some outdoor opportunities. They are looking into grant possibilities to build a playground facility on their property adjacent to the library. One option would be a GOCO Grant, but the library is not allowed to apply for these grants through the Great Outdoors Colorado Program. The Town of Bayfield is allowed to apply for these grants and Ms. Walchak has asked staff about the possibility of using the town as a conduit for the grant funds to build the facility and about the long term upkeep as a park facility.

Ms. Walchak introduced Library Board Member, Abbie Wiler. Ms. Walchak stated that the library was voted the Best Small Library in the country last year. Ms. Walchak became Director of the library in November 2014. The library has added daily afterschool snacks and programs three days a week to keep the children focused and eliminate discipline problems that were being experienced. The Library Board has discussed the possibility of turning their vacant lot into a playground facility. Ms. Walchak stated that she spoke with Parks and Recreation Director, Scott Key and later spoke with Town Manager La May about the possibility of partnering with the Town to build a park. There are a lot of details still to be worked out. Tonight the Board is being asked their opinion on whether or not this is something to proceed with. This would be a multi-organizational project that would benefit our local children.

Trustee Nelson stated that anytime the Town can partner with other community resources for something positive is a good idea.

Mayor Smith stated that education is the key to the viability of the community. The library plays an important role in that education and he would like to see the organizations work together on this project. This will cause the Town to lose their grant opportunity for a cycle. Staff is willing to forgo movement on a Planning Grant to pursue a grant with the library.

Town Manager La May stated that at this point staff is looking for direction from the Board.

Trustee Nelson asked when the grant application is due.

Ms. Walchak stated that the deadline for the grant application is November 3, 2015.

The Board agreed to have staff move forward with discussions with the library.

Town Manager La May stated that GOCO requires a resolution from the Board of Trustees before the application is submitted.

Action Agenda Item #3: Discussion and Possible Action – Senate Bill 152 Opt Out Measure

Town Manager La May stated that in 2005 the Colorado General Assembly passed Senate Bill 152, which was titled "Competition in Utility and Entertainment Services". The Legislature's stated intent behind the act was predictability, uniformity and fairness in the cable television, telecommunications and high-speed internet access industries, especially where affected by municipal actions. Senate Bill 152 prohibits local governments from directly or indirectly providing cable television service, telecommunications service or advanced services. Advanced Services are defined as high-speed internet access in excess of 256 kilobits per second. There was an exception provided in the statute that states a local community can provide indirect services or essentially lease or sell excess capacity in its own network, if that capacity is considered insubstantial in comparison to the use of the network. The Town of Bayfield now has fiber in the ground that we would like to lease and at this point staff is taking the position that what we are leasing is an insubstantial amount. As we provide and lease

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more fiber staff would like to know that we are not in violation of Senate Bill 152. There has been discussion with CML regarding lobbying the Legislature to change or rescind Senate Bill 152. CML has stated that we have the option to opt out of Senate Bill 152, as a local jurisdiction. CML also stated that we have a better chance of opting out of the bill than getting the Legislature to revisit it. In order to opt out of Senate Bill 152 the question would have to be presented to the voters. By opting out we would be reestablishing rights that we had before 2005. A ballot measure will need to be created if the Board wishes to move in that direction. We will also need to decide if it should appear on November's ballot or on April's ballot. The City of Durango and La Plata County are both going to have Opt Out Measures on the November ballot.

Trustee Davenport asked if there was any reason to not opt out.

Mayor Smith stated that Century Link is the company with the most to lose by us leasing fiber. If we do not opt out Century Link could say that we are leasing more than an insubstantial amount.

Trustee Morlan made a motion to direct staff to draft a resolution for a ballot measure opting out of Senate Bill 152, to be on the November ballot. Trustee Salka seconded.

Trustee Nelson stated that she would like to see "without increasing taxes" included in the ballot language.

Roll call: 7 – 0

Motion passed unanimously.

Action Agenda Item #4: Consideration of Approval of Dark Fiber Lease Agreement

Town Manager La May stated that at the last meeting the Board discussed who should do the invoicing for the fiber lease and how the funds should be split with the SWCCOG. Staff was directed to discuss this matter at July's meeting for the SWCCOG. The SWCCOG did not meet in July and will not meet again until August. In the meantime, staff would like to move forward with leasing fiber to a private provider. Cedar Networks desires to lease one dark fiber from the Town to enable them to serve businesses in Bayfield. We have drafted an agreement that could be applicable to any provider. Staff is asking for the Boards approval of the agreement as to its form. We would then use this same form when leasing fiber to other private providers.

Trustee Nelson asked if the Board was being asked to approve the form with the language that the fees would be paid directly to the Town of Bayfield.

Town Manager La May stated that all language referring to the SWCCOG as the collection agency has been removed.

Trustee Nelson asked if this form could be changed in the future.

Town Manager La May stated that it could be changed.

Trustee Morlan made a motion to approve the Fiber Lease Form, to lease the Town's excess capacity. Trustee Nelson seconded.

Roll call: 7 – 0

Motion passed unanimously.

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Action Agenda Item #5: Discussion and Possible Action – Tier III Underground Storage Tank Closure

Town Manager La May stated that ALTUS, company doing the contract work for the Colorado Division of Oil and Public Safety, has contacted staff requesting the Town agree to a temporary closure of the site on Mill Street. This would prevent further remediation. The advantage is that a closure would reduce the impact to the road. If this is something that the Board would entertain, staff will ask ALTUS and the OPS to attend a Board Meeting and explain the process in more detail. The other advantage is, OPS considers this an orphaned tank and the reimbursement costs are being covered by the State.

Trustee Nelson asked if there was still a tank in the ground.

Town Manager La May stated that according to reports, four tanks were removed and in 2014 another tank was discovered.

Mayor Smith stated that the Board needs to decide if they would like ALTUS and OPS to attend a Board Meeting to discuss the consequences of a temporary closure.

The Board agreed to have staff contact ALTUS and OPS and ask them to attend a Board Meeting to discuss these matters.

Action Agenda Item #6: Consideration of Participating in the November 4, 2015 General Election Coordinated by the La Plata County Clerk

Town Manager La May stated that the Town needs to have a letter to the County Clerk by July 24 if we want to participate in a Coordinated General Election in November 2015. The costs are fairly comparable and there are advantages as well as disadvantages to either a coordinated election or a polling place election.

Trustee Davenport stated that she feels a coordinated election would be the most cost effective.

Trustee Morlan stated that the cost for the coordinated election was more than the polling place election.

Mayor Smith stated that taking staff time into consideration the coordinated election is probably most cost effective. He also stated that he was concerned about the Board catching grief over not coordinating with the County and requiring people to vote twice.

Trustee Morlan stated that he feels the Town would have more control if we held our own polling place election.

Mayor Smith stated that the advantage to a polling place election would be that the only two items on the ballot would be the Town's ballot measures.

Trustee Davenport stated that on the flip side, a coordinated election will reach more voters.

Trustee Morlan made a motion that the Town of Bayfield conduct a polling place election. Trustee Salka seconded.

Roll call: 6 – 1 (Trustee Davenport voted against)

Motion passed.

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Action Agenda Item #7: Consideration of Approval of Professional Services Agreement with FEI Engineers for Water Line and Valve Replacement Project

Town Manager La May stated that the Town was awarded an Energy and Mineral Impact Grant from the Department of Local Affairs to replace 1300 linear feet of water line and to install approximately 12 isolation valves in the water system. Staff has received the contract from DOLA. The next step is to enter into a contract with the engineer for design and contract preparation for that project.

Trustee Nelson made a motion to approve the Professional Services Agreement with FEI Engineers for the Town of Bayfield's DOLA Water Line and Valve Replacement Project in an amount not to exceed \$24,875.00, plus reimbursable expenses. Trustee Davenport seconded.

Roll call: 7 – 0

Motion passed unanimously.

Action Agenda Item #8: Board Reports (SWCCOG, LPCEA, RHA, SWTPR, Region 9, Other)

Carol McWilliams stated that the Senior Board will meet tomorrow.

Trustee Nyberg stated that the Planning Commission will meet next week.

Trustee Salka stated that the SWTPR will meet August 7th.

Town Manager La May stated that the Housing Study was presented to the RHA Board at their last meeting.

Trustee Nelson stated that there had not been a recent meeting of the SWCCOG.

Mayor Smith stated that the LPCEA had not had a recent meeting.

Trustee Sanders stated that Region 9 will meet on July 23rd.

Action Agenda Item #9: New/Unfinished Business

Town Manager La May gave kudos to staff for the 4th of July event.

Trustee Davenport made a motion to adjourn to Executive Session under C.R.S. 24-6-402(4)(e) determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators related potential annexation, to include Town Manager La May and Attorney Goldman. Trustee Nelson seconded.

Roll call: 7 – 0

Motion passed unanimously.

Board adjourned to Executive Session at 8:12 pm.

Board came out of Executive Session at approximately 8:30 pm.

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

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Meeting was adjourned at approximately 8:31 pm.