

**Town of Bayfield
Regular Town Board Meeting
August 16, 2011
1199 Bayfield Parkway Bayfield, CO 81122**

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

Town Board Members Absent: Gabe Candelaria

Staff Present: Chris La May (Town Manager), Dirk Nelson (Town Attorney), Marianne Jones (Town Clerk), Chris Choate (Marshal), Ron Saba (Director of Public Works), Erin Dunavant (Finance Director), Gary Maestas (Deputy Marshal), Dan Abdella (Deputy Marshal), Paul Pate (Deputy Marshal)

Media Present: Carole McWilliams (Pine River Times)

Minutes: Tom made a motion to approve the minutes from the August 2nd, 2011 Regular Town Board Meeting as presented. Dan seconded the motion. All were in favor, motion passed unanimously.

Public Input: Carole McWilliams commented that she doesn't think it is a good idea to put in a 4-way stop at the intersection of County Road 509/Bayfield Parkway. She feels that a 4-way stop will cause a false sense of security and could cause more accidents at that intersection. She thinks a better solution would be to move the concrete barrier that is located in that area to improve sight distance.

No additional public comment was added. That portion of the meeting was closed.

Action Agenda Item #1: Approval of Bills

Dan made a motion to approve the bills dated August 12th as presented. Tom seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #2: Town Updates

Debbi stated that she is okay with the easement going through the McKay property being bigger than what it is right now. She also mentioned that she thinks there might be some language regarding temporary construction easements on that property.

Dirk stated that the easement was initially larger and then it was reduced down when it was platted permanently.

Justin Talbot commented that he wants to make sure that the staff is being diligent with the money that was received for Bayfield Parkway. He is concerned about the low interest rate that is projected in the future and wants to make sure that the Town is receiving the best possible earnings on the funds.

Dan mentioned that he had checked the ColoTrust website and they are currently offering a rate of .05%.

Chris mentioned that he would like to set up a work-session to discuss options & possibilities for the expenditure of the money that was received for Bayfield Parkway.

Rick suggested scheduling the work session during New/Unfinished Business.

Action Agenda Item #3: LAPLAWD Feasibility Study

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Chris introduced Patrick O'Brien with Briliam Engineering. He explained that the Town Board and the Board of Directors for LAPLAWD (La Plata Archuleta Water District) entered into an agreement with Briliam Engineering for a joint feasibility study. This study is to see if it would be a good option to use the Town's water system & facilities for providing water to their service area or if they would be better off to build their own facilities & lease water from the Town until those facilities are completed.

The floor was given to Patrick O'Brien.

Patrick gave his report. He stated that Briliam Engineering was contracted to research the possibility of expanding the current water treatment facility versus the construction of another plant that would be built in the County to determine which avenue is the best for both the Town and LAPLAWD. Briliam looked into the future 20 years and used numbers based on LAPLAWD estimates of needing approximately 720,000 to 864,000 gallons per day & Bayfield estimating an increase in demand of 136,000 to 280,000 gallons per day. The combined estimated total is an additional capacity of 1 million gallons per day. A cost comparison was done between expanding the existing Bayfield water treatment plant by 1 MGD and the construction of a new 1 MGD water treatment facility. The expansion of the Bayfield plant indicates a construction cost savings of approximately 50%. Therefore, the study recommends jointly expanding the existing Bayfield water treatment plant rather than constructing a new facility.

Patrick explained that there are several reasons that they are recommending the expansion. It would provide LAPLAWD the ability to focus on constructing their distribution system and it would allow both entities to provide service to current residents but will also provide a cost effective way to fund future operation maintenance & replacement costs. Currently, the Bayfield plant has a capacity of about 1.35 million gallons per day. This expansion would bring the Bayfield plant to approximately 2.35 – 2.5 million gallons per day. The expansion includes a building that would be large enough to expand the facility another 1 million gallons per day in the future (if needed). The Town currently has a micro-filtration system & an Actifloc system. The study really focuses on these two types of technology because staff is already very familiar with both of these and learning a new system would be difficult.

Patrick mentioned that LAPLAWD needs to finalize a carriage agreement with the Los Pinos Ditch Company so that they can convey water through the ditch system.

The cost estimate of the feasibility study is a level 4. This is a best guess (depending on when the plant is constructed) but there are always unknowns that are impossible to predict. They were very conservative with their numbers and they feel that it is a very good estimate of cost.

Rick asked if the calculations in the study reflect the Town's growth over the next 20 years.

Patrick answered that it does. He explained that they looked at the last 15 years of growth in the Town and came up with a determination of 1.5% average growth rate to use as their calculation factor for the future.

Rick asked if the Town is going to have to add additional water storage to account for this additional capacity. Patrick answered that LAPLAWD will rent part of the Town's storage infrastructure until they get theirs built. The intergovernmental agreement between the two entities will need to outline the details regarding this rental of facilities & infrastructure.

Dan stated that he is going to want to know the worst case scenario possible on this joint venture.

Ed asked about building a separate facility (rather than using the Bayfield site).

Patrick answered that they did research the possibility of building another treatment facility and it was determined that it will be much more expensive to go that route. The total cost of a new facility is approximately 8.3 million dollars versus 5.1 million dollars to upgrade the Bayfield plant.

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Debbi asked for clarification regarding the possibility of two expansions on the Bayfield plant.

Patrick explained that the building will be built large enough to house future expansion needs.

Rick asked how LAPLAWD will get water to their residents that are not located downstream.

Patrick answered that they will have to construct several pumping stations to get service to all of the customers.

Patrick outlined the engineer recommendations:

- Expansion of the existing Bayfield WTP to serve both future Bayfield and LAPLAWD provides a significant capital cost savings when compared to the construction of separate water treatment plant. Similar or larger percentage savings are expected for treated water production.
- Bayfield retains ownership and operates the water treatment plant with LAPLAWD having allocated capacity and cost sharing responsibilities.
- Bayfield and LAPLAWD develop an agreement to cost share: (a) use of existing Bayfield facilities (e.g. existing water treatment plant capacity, water tanks, sections of distribution system); (b) the design and construction of the water treatment plant expansion; (c) the (operation, maintenance & replacement (OMR) cost for facilities, primarily the water treatment plant; and (d) the upgrade and installation of future expansions.
- Cost sharing should be based on methodologies that are logical, clearly understood, repeatable by future participants and derived from actual costs and/or water usage.
- Once the agreement is in place, initiate the design and construction process for the water treatment plant expansion which will likely require 18 to 24 months to complete.
- While the water treatment plant is being developed, coordinate the construction of pipelines by LAPLAWD through the Bayfield service area.
- Bayfield should complete a new rate study to ensure that the system OMR requirements are addressed.

Dan asked if this joint venture is feasible for both parties.

Patrick answered that it is feasible for both entities. The Town will own the infrastructure and will have an IGA with LAPLAWD. He explained that the Town is going to need to have clauses outlined in the IGA that gives the Town an exit strategy in the event that things do not work out with LAPLAWD.

Dan asked if this venture will be feasible if growth patterns on both sides remain flat (and doesn't grow at the anticipated 1.5%).

Patrick responded that the study is based on very modest growth estimation. The study only shows the population increasing by 1000 residents in 20 years. He explained that population estimates are hard to predict but he thinks that this is a very conservative number.

Chris responded that LAPLAWD has stated that they plan to be very cautious to only build as far out as they can afford.

Dan asked if that will be part of the agreement with the Town (that their grasp cannot exceed their means).

Patrick answered that will be one of the components of the agreement. They can only expand based on the money they accrue from the 5 mill levies they have on their customer's property tax.

Dan asked if they have a substantial amount of money available right now for the initial construction.

Patrick answered that they do.

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Dan stated that he fears doing this and then not having the growth to support it. He is concerned that people are moving out of the small Town and into large cities and he doesn't want to put Bayfield in a bad financial position in the future. He expressed that he wants to make sure that the Town is very cautious in moving forward with this project and that the Town looks at the worst possible scenarios. He stated that he wants the Town to make sure that the agreement is very well written and it gives the Town an "escape clause" if needed.

Rick asked how the Town will recoup their money in the event that LAPLAWD cannot make this work with their customers.

Chris responded that LAPLAWD expects to bare the brunt of the cost for the initial expansion. Their contribution to this project will be much more substantial than the Towns so the Town's risk will be much smaller. However, the Town would need to cover all of the bases in the IGA to make sure that everything is very well detailed and that the Town is covered in the event that LAPLAWD goes bankrupt or the project just doesn't work out. Chris asked the Board if they would like the staff to continue working with LAPLAWD to come up with an IGA.

Dan answered that he wants to move forward and be a good neighbor to those residents who live in the surrounding areas of Bayfield. However, he feels that the Board and the staff have an obligation to reduce the risk to the Town as much as possible and ensure that the Town is covered in the event of any unfortunate circumstances.

Tom asked how many operators are going to be needed to run the plant.

Ron answered that it will need 2 "A" operators.

Patrick explained that once this expansion occurs this plant will have an "A" designation so the State will require an "A" operator to be on call at all times.

Tom asked what the salary range is for an "A" operator.

Patrick answered that it is approximately \$65,000-\$75,000 per year; however, LAPLAWD would contribute towards that salary cost.

Rick commented that the key to success for this project will be in the way that the IGA is written. He expressed that the IGA will have to be written in a way that it works for both entities but the Town Board will need to make sure that the Town & its residents are protected. He feels that the Town should move forward with this venture and begin the negotiations on the IGA but he wants it to be well-written and give the Town the exit strategies needed.

Ed asked if the service area that LAPLAWD will serve has been determined. He asked if Gem Village is included.

Patrick answered that Gem Village is in the town boundaries for water service and did not qualify for the water district.

Dirk explained that when LAPLAWD was forming their district the Town was allowed to comment on the areas that they wanted to keep in their purview for possible servicing. Gem Village was one of those areas. There is a very specific map outlining the areas that LAPLAWD is legally allowed to serve (that aren't in the realm of any municipality or central water system).

Chris clarified that the Board would like the staff to continue working with LAPLAWD on this project based on the engineers' recommendations. However, the staff needs to make sure that the IGA is very well written and

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thorough to make sure that the Town's best interest is considered. Chris stated that he will work on a rough draft of the agreement and bring it back to the Board for input & revision.

The Board concurred.

Dan asked what obstacles LAPLAWD is facing right now.

Patrick answered that there are some right-of-way issues and logistics of developing the system. They do have the right of condemnation which they can use to gain the rights-of-way that they need but it takes time to go through that process.

Action Agenda Item #4: Pubic Hearing – Ordinance #365
Amendment To The International Building Code Regarding Requirements For Site Plan Location
Certificates

Tom asked to be recused from this item.

Chris gave his staff report. He stated that the Town has had a reoccurring problem in the past year with builders building into the set-backs. The Town Board has approved two plat amendments in the Fox Farm & Cinnamon Heights developments and another residential variance was approved by the Planning Commission for a home that was built in the Mesa Meadows Subdivision. However, the Planning Commission granted the variance with the understanding that some sort of resolution would be done in order to keep this problem from happening again in the future.

The staff has done extensive research on what other communities do to govern this type of issue and reviewed policy changes that might also help keep this from occurring. The final decision was that it would be best to require an Improvement Land Certificate from home-builders prior to pouring foundations. This is a pretty standard procedure in the building permit process (especially when the home is being built very close to the set-back line) and will definitely protect the Town. It also won't be of substantial cost to the home-builders because this certificate is a requirement of the mortgage companies to finalize loan documents.

Chris explained that Dirk provided a draft ordinance at the August 23rd, 2011 meeting amending the International Building Code as adopted by the Town by adding a section entitled "Site Plan Improvement Location Certificate" & a section entitled "Site Plan Improvement Location Certificate Inspection".

The ordinance was discussed at the last meeting and changed in accordance with the comments made by the Board. Changes to the ordinance include changing the Site Plan Improvement Location Certificate to read "Preliminary" Site Plan Improvement Location Certificate; the removal of the language that states that the costs of requiring an Improvement Location Certificate are minimal compared to potential damages associated with constructing improvements that do not comply with the location requirements of the Town Land Use Code and Building Codes; adding language that the land use administrator shall also be provided and review the ILC; and the requirement to show the building forms tied to the building corner nearest to a lot line prior to installation.

The item was opened for public hearing. None was offered so it was immediately closed.

Justin asked if this requirement will be enforced for all properties or if there will be a variance procedure for large lots that aren't close to the set-back lines.

Dirk answered that as drafted it applies to all new construction and does not give any concessions for large lots.

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Debbi expressed that she thinks it's going to be confusing for builders if the Town requires that the ILC show both the foundation and footer forms because those two things are seen at different times in the building process.

Dirk explained that there is an inspection provision in the building code that requires an inspection on the footer and foundation forms. This is the language that is outlined in the code.

Debbie stated that she would like the requirement to be on the foundation forms rather than the footer forms. She thinks that would simplify the process for the builders & eliminate the possibility of confusion.

Chris mentioned that it is possible that builders could end up having to pull out the concrete footers in the event that they were constructed in the wrong place or the builder would have to come in and request a variance.

Debbi stated that she wouldn't be inclined to grant a variance on footers because she feels it is something that can be pulled out and constructed properly without substantial cost to the builder. However, when an entire house is completely constructed, that cost is so substantial it is necessary to grant a variance.

Rick asked Tom if the home owner will have to have two separate inspections to meet the requirements as outlined in the ordinance.

Tom answered that the homeowner will actually have to get three separate inspections. One for the footers, one for the stem wall and one after construction is completed.

Rick asked Tom if it would be a good idea to change the wording to only include the stem walls.

Tom answered that most municipalities in the areas only require surveys on the stem walls.

Dan commented that he thinks 3 inspections is too many and that he would be okay with changing the wording in the ordinance to just the stem walls.

Dirk asked Tom if it is common practice to show recorded easements, setbacks and other encroachments on these types of certificates.

Tom answered that it is required to show easements if they are on the plat; however, it's not required to show full title work. However, the state statute does not require setback be shown on the document.

Dirk asked if the Board wanted him to change the language to include all easements on the recorded subdivision plat because he feels this might cause undue burden on the homeowner.

Debbi answered that she would prefer that the certificate show all recorded easements. She feels that the property owner should have a title commitment outlining all of the easements associated with the property.

It was decided that the Town needs to protect against building occurring in both the set-backs & recorded easements.

Dirk clarified that the change to the ordinance will be to delete "footer & foundation forms" in section 1 and replace it with "stem wall forms".

Debbi made a motion to adopt Ordinance #365 amending the International Building Code as adopted by the Town by the addition of Section Number 106.2.5 entitled "Preliminary Site Plan Location Certificate" and Section Number 109.3.1.5 entitled "Preliminary Site Plan Location Certificate Inspection" with the change outlined by Dirk. Justin seconded the motion. All were in favor, motion passed unanimously.

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Tom rejoined the Board.

Action Agenda Item #5: Approval of Statement Regarding Development Approvals For Highlands Subdivision

Chris gave his staff report. He stated that the Highlands Subdivision was approved for annexation August 7, 2007 and approved for subdivision on August 21, 2007. Documents were not recorded within three months of approval and the vested rights were in jeopardy of lapsing. The Board has continually granted the extension of the vested rights for this property since that time. Even though the plats were never recorded, the Developer put in a water line to the Town's water storage tank through the property. However, when the Town tried to utilize the dedicated water line it was discovered that there were problems with the line that had to be fixed. The Developer had left Town and the Town was forced to bare the cost of the improvements.

On January 18, 2011 the Board of Trustees agreed to extend the vested rights for the Highland Subdivision contingent upon the developer completing all of the items on the following list within 60 days (including the payment in full of the waterline costs).

Items on the list included:

- Cost for the water line repair
- Obtain and maintain a storm water management permit
- Cap the drainage pipe that could lead to drainage issues.
- Complete the annexation process, which was approved but never signed.

Chris explained that Jim Flint, representing Bayfield Ridgeline, LLC informed him that the property owners had decided not to execute the annexation agreement, thereby, allowing the vested rights on the development to expire. Therefore, the Board of Trustees directed him and Dirk to explore options on the recovery of water line repair costs.

Chris stated that the Town has two options regarding the recovery of the \$30,838.00 in water line repairs.

Option 1: Do nothing at this time, but negotiate for the recovery with future property owners when they request to tie-in to the Town's water system. This option is problematic in that there is potential that future staff and/or Board's forget about the commitment, or the requirement comes as a surprised to the property owner.

Option 2: File a statement on the property to alert future property owners that the Town expects to be recouped for costs (i.e. requirement is disclosed up front). Town would incur minimal costs to file the paperwork and future parties would be on notice.

Chris recommended that the Board direct staff to file statement regarding development approvals informing future property owners of the recovery requirement of \$30,833 for the water line repairs.

Dirk added that the Town cannot do an actual lien on the property but this statement does outline that all of the approvals have been terminated and the Town is going to seek to recoup the costs in the event of property development.

Dan asked if this statement will be recorded.

Dirk answered that it will be recorded and it will show up on the title work.

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Tom clarified that the Town won't be able to collect in the event the property sells but the statement will give the buyers notice that upon development the Town will require payment of these funds.

Ed asked if it would be possible to add interest accrued.

Dirk answered that since there isn't a judgment it's hard to tack on interest.

Tom made a motion to file the statement regarding development approvals for the Highlands Subdivision. Dan seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #6: Approval of License For Doug Hanna – 158 W. North Street

Chris gave his staff report. He stated that during the Public Works Department's sanitary sewer line TV efforts, it was discovered that a privately owned sump pump was tied into the property owner's sanitary sewer line at 158 W. North Street. Public Works contacted the property owner and he disconnected the sump pump from the service. The property owner then piped the water from the sump pump to the alley adjacent to the property. The water surface flowed down the alley, out into Mill Street and then to the nearest storm water inlet. Over time the water is most likely going to deteriorate the alley and deposit sediment onto Mill Street. Staff contacted the property owner and requested that he find an alternative to surface flow in the alley.

Chris explained that Town staff suggested that one option would be to pipe the water down the alley and tie the piping into the storm water inlet. The property owner, while not excited about the prospect, did agree that this option was viable. As the piping is to the benefit of a private property, Town staff did not believe that the Town should expend financial resources to resolve a private matter. Town staff in an effort to work with the property owner suggested that, with Board approval, the property owner might be able to use the alley; however, the Town would need a License Agreement. The License assures that it is understood that the property being utilized is Town property and that the Town maintain its rights to the alley and may request the relocation of the water piping. Additionally the installation, maintenance, repair, and or alterations for the sump pump water piping will be the property owner's responsibility.

Chris recommended approving the License, which will enable Mr. Hanna to begin installing the piping. He also expressed that there is some urgency to get this completed because the house is under contract to sell.

Ed asked why this house is having this problem.

Chris explained that it's a groundwater problem.

Justin asked if the homeowner will have to fix the alley if it settles sometime in the future after the work is completed.

Dirk answered that the Town will have to inspect the work and accept it. If there is any follow-up work needed it will be the property owner's responsibility to fix it.

Tom asked how the Town will get the property owner to fix it in the event of a problem.

Dirk answered that it would be in the best interest of the Town to have the property owner post a bond sufficient enough to cover the costs in the event of a problem.

Tom asked if the Town can shut off his water as an enforcement tactic.

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Dirk answered that the Town can lien the property for the amount of the costs if the Town has to make the repairs.

Tom expressed that he wants to see some protection for the Town.

Dirk stated that he will add some language regarding the possibility of liening the property in that circumstance.

The Board concurred with the change.

Ed made a motion to approve the license for Doug Hanna with the amendment for the language regarding the ability for the Town to lien the property. Debbi seconded the motion. All were in favor, motion passed unanimously.

Action Agenda item #7: New/Unfinished Business

Chris mentioned that the CML District 9 Fall Meeting will be held in Pagosa on September 19th, 2011 and the Alliance Economic Summit will be held on October 19th @ Sky Ute Casino. He asked the Board to let him or Marianne know if they are interested in attending either event.

Chris also reminded the Board that the interviews for the Municipal Court Judge will be held on August 23rd beginning @ 5:00 p.m.

Ed commented that he will be out of Town and will be unable to attend the interviews.

Chris requested setting up a work session to discuss capital needs and the funds received for the acquisition of Highway 160B

It was decided to have the work session on Saturday August 20th from 8:00 a.m. – 12:00 p.m.

Ed reminded the Board of the Bayfield Early Education Program Grand Opening on August 20th from 2:00 – 4:00 p.m.

Dan asked Erin to give him some detail on the sales tax revenue showing the 1st half of 2011 versus the first half of 2010.

Erin stated that she will send that to him.

Tom mentioned that Ron's report stated that the GIS system being done by Fort Lewis College isn't going to be accurate enough to use on a daily basis. He asked why the Town staff is wasting time and resources on the project if it's not going to be helpful.

Ron answered that the Town received a grant for this project and while it won't be detailed enough for everything it is better than what the Town has currently.

Tom asked if the Town knew it wouldn't be totally accurate when we signed up for the grant.

Ron answered that he found out that the maps aren't going to be perfectly accurate in May. They could potentially be anywhere from 3 – 10' off of actuality. However, he feels that it will be nice to have some GIS mapping of the Town's infrastructure but it won't be detailed enough to use for engineering.

Debbi asked how street lights are billed for the Town.

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Marianne answered that most of the street lights are included on one large La Plata Electric bill. However, there are some separate rental agreements on some of the newer subdivisions in Town.

Ed commented that he liked getting the memo regarding cable service from USA Communications and would like to continue receiving them. Ed asked if the Town has received any more communication on the Franchise Agreement with USA.

Chris answered that he sent the revised version but has not been able to get into contact with them and they haven't returned his phone calls.

The meeting was adjourned at 8:27 p.m.

Minutes were approved as amended on September 6th, 2011

Approved:

Rick K. Smith
Mayor

Marianne Jones
Town Clerk