

**THE TOWN OF BAYFIELD
REGULAR MEETING OF THE TOWN BOARD
11 WEST MILL STREET, BAYFIELD COLORADO
APRIL 17 2007 7 P.M.**

Town Board Present: Rick Smith, Russ Jones, Carol Blatnick, Mayor James Harrmann and Daryl Yost. Tom Au and Niel Hieb were absent.

Staff Present: Justin Clifton, Town Manager, Joe Crain, Planner, Pat Anselmo, Town Clerk, Dirk Nelson, Town Attorney, Ron Saba, Public works Director, and Marty Zwisler, project manager.

The meeting was brought to order at 7:04 p.m. by Mayor Harrmann.

Carol asked that the minutes of April 3 2007 be corrected, on page two, Agenda Item #2, strike 'Andy' insert 'Justin' right before 'interjected'.

Carol Blatnick moved to approve the minutes of April 3, 2007 as corrected. Rick Smith seconded. The vote was four in favor, motion carried.

Although Tom Au was not present, the Mayor wished him "Happy Birthday".

General Public Input: The Mayor invited the public to make comments. None were given. The meeting was closed to public input.

Daryl wanted to express his appreciation on behalf of the Board to the County Commissioners for their letter to Senator Wayne Allard, Senator Ken Salazar and Representative John Salazar, expressing the County's support of federal appropriations for construction of a sewer treatment facility for Bayfield.

Action Agenda #1: Payment of Bills: Daryl Yost moved to approve payment of bills as submitted. Carol Blatnick seconded. The vote was four in favor, unanimous. Motion carried.

Daryl Yost made a motion to modify the agenda, to accommodate time for an Executive Session between Agenda Items # 8 and #9. Rick Smith seconded. The vote was four in favor. Motion carried.

Action Agenda #2: Town Hall Update: Mr. Humphries, Humphries Poli Architects, was present to review different floor plans and the external visual aspects of plans they had submitted. He advised the Board that the schematic represents 15% of their total effort. When asked about the width of the parking places, he replied that, to his recollection, the parking spaces are nine and one half feet wide. A question and answer period followed. The audience was invited to participate and all remarks were addressed by Mr. Humphries.

Justin asked that the Board approve, in the form of a motion, a schematic design this evening.

Rick Smith made a motion to approve the schematics of the design developed and presented this evening, and to instruct staff to move forward with whatever action is

necessary. Carol Blatnick seconded. The vote was four in favor, motion carried unanimously.

Action Agenda #3: Consideration of Financial Management Service:

Justin had included three documents in tonight's packet pertinent to James Capital Advisors, Inc., one of which is a draft of a proposed letter of agreement to engage them as Financial Advisor to the Town with respect to the financing of government facilities through lease/purchase financing. It does not include travel expenses. The agreement specifies compensation in the amount of \$8,500 for the services outlined. Justin reaffirmed that this agreement would only pertain to the financing of a new town hall. This includes getting a bond, conducting negotiations and securing favorable terms. Dirk explained that, according to Tabor, the Town cannot spend money without a vote. This is the purpose for referring to the process as a lease. Dirk explained that the language on the term needs polishing. Justin would like to see the board approve the contract, with the polished terms and conditions included, and instruct the staff to proceed with the finalization of the contract. Carol moved to approve the engagement of James Capital Advisors, Inc. by the Town of Bayfield for the services outlined in the draft agreement letter. Rick Smith seconded. The vote was four in favor. Motion carried unanimously. Discussion followed concerning utilization of local general contractors and subcontractors for this project. Dirk responded that in the RFP the Board could include preferences for contractors, but ultimately it all comes down to cost.

Action Agenda #4: Heritage Society Town Hall:

Justin explained that the Heritage Society was considering the possibility of using the existing town hall building for the establishment of a museum. The members of the Heritage Society, represented by Mark Conrad, are asking for first right of refusal on the purchase of the building. He feels that a museum would enhance the viability of a revitalization of the downtown area. If the Board is agreeable to this arrangement, it would put the Heritage Society in a favorable position when applying for grants. Dirk suggested that the board approve the *concept*, and then draft the applicable paperwork. The document would need to address the time element and price. A motion would be needed to accept the concept. Daryl asked that staff please involve the Downtown Bayfield Association in this activity. Justin commented in the affirmative, saying that they are integral in this development plan. He will ask them formally, connotating they have always responded positively in the past to ideas for growth and development. Carol moved to approve the concept of granting first right of refusal to the Heritage Society, and to instruct staff and the museum proponents to work out the arrangements. Russ seconded. Rick Smith asked for reassurance that those involved will check with the Downtown Bayfield Association before proceeding. The vote was four in favor.

Motion carried unanimously.

Action Agenda # 5: Senior Center Update:

A committee met today to choose an architect. Marty commented that, although the choice has been made, written notifications have not been sent. Therefore, the choice

cannot be disclosed at this time. Justin said that all procedures must coincide with the sanitation district issues, and scheduling must tie with the County.

Action Agenda #6: Sports Park Update: Justin is trying to get a report update on this project at least once a month. Marty commented that they are very close to completion of the restrooms. He then added that a more critical issue is the lighting. The weather has had a negative impact on the progress of the installation of the electrical components. Daryl asked Marty if the town would have schedules including milestones so the public can come in and check on the status of the projects. Marty answered 'yes'. He reaffirmed that he is overseeing the schedules and making sure the budget numbers stay in line. Justin did a cash flow schedule. He asked the board if they needed any further information.

Herm asked Marty what he is going to do with the outfields. Marty replied that they are tuning up on the grading and that fencing will start next week. Then, as soon as the fence is done, they will seed. Justin, we cannot take any luxuries (hydro-mulching) at this stage of the game, because of the costs already incurred. Hydro-seeding would allow faster growth, but it would also be much more costly. Herm asked that Andy go after all available financial contributions.

Action Agenda #7: Public Works Reports:

Ron Saba, Public Works Director, gave a short verbal report to the Board.

The weather did not cooperate with the completion of the irrigation system. He is waiting for the availability of hot mix to fix the pot holes in the roads. He rented a sweeper to get the worst dirt off of the roads. He also contracted with a street sweeping company to do the remaining streets. He is working on landscaping, but they cannot spray weeds when it is raining.

The new water tank is on line. It has no leaks at all.

He installed an emergency backwash system for the filters. He had Alert Traffic make signs for the water treatment plant. There have been numerous water leaks in lines around Town this spring. The Radio Read training has been completed. The system is very efficient. Reading the meters can be done in minutes, not days.

Ron anticipates a 12% increase in the amount of water treated this year.

The water treatment plant can produce 1.3 million gallons a day.

Justin and Ron worked on job descriptions and pay rates. This data was prepared by Ron and submitted in the packets.

The Board wants Ron to come back to another meeting to discuss problems including water pressure, prvs (pressure reducing valves) etc. This will happen sometime in the near future.

Action Agenda # 8: Bayfield Heights Re-subdivision of Lot 119: David Black, 606 Buck Highway, Sec 11, T 34 N, R 7 W, NMPM, Parcel #5677-123-08-019:

Joe Crain asked that the board go back in time to August 2006. It was then they heard the request for the preliminary plat of this property. He described the land, the lay of the land, the acreage (2.03) and other characteristics of Lot 119 of the original Bay Heights subdivision. David is proposing, for the existing house on Lot 119a, the continuation of access from Buck Highway. He is adding five lots, of which three will gain access from

Fox Farm Circle. He is to put in a driveway to Lots 119 b and 119 c. The town has usually required stub-outs. Please refer to the Planners Report dated April 13, 2007. The Town engineer returned his comments, which are included in the paperwork submitted in the packet. The bonding for improvements will cost \$16,500. Dirk has included a draft SIA for the board's consideration. Karola Hanks, speaking on behalf of Upper Pine Fire District, said they do not have any problem with the plans. Staff recommends the board approve the request for this re-subdivision, creating 5 new lots, contingent upon compliance with the seven conditions listed. Ron is to replace the old water line that is located on David's property. This water line currently provides all water for downtown Bayfield.

David was to check with Phyllis Ludwig on just *who* holds the water rights. If all water rights (the amounts of which had previously been agreed upon) have been dedicated to the Town, all will be well. Other wise the town would need to have proof that the water has been dedicated to the town. Daryl asked about street lights.

The preliminary plat has already been approved. This is the final plat. The Board asked, if they approved the final plat, is this going to be an issue with the State. Rick affirmed to Justin that the board can refrain from approving the final plat or refrain from letting it be recorded. The Mayor simply would not sign the plat. Dirk researched the resolution which was recently approved by the board which said the board would not allow the recordation of the plats. Rick was concerned if there would be a problem if the Board chooses to approval this, because it is different that the position they took with Murray Mead. Justin replied that this is an appropriate concern on whether or not everything would be consistent. Joe felt it was not quite the same. Murray wanted to split his property. Russ replied that the board needs to be consistent. Joe said that the SIA is in draft form. If the plat is approved, Justin could consult the Sanitation Board on compliance issues. It would be advisable to have all pertinent stipulations included in the SIA.

David informed the Board that he is not interested in building. He just wants to get the infrastructure in place. He still has two unresolved issues. The area which has the gas line buried only several inches deep remains a problem. He brought this to the board several months ago. The line is only about one foot below the surface of the dirt. David Black said For Farm should take care of this, David remembered Denny Ehlers saying they would.

In the SIA there is a blank spot concerning the contribution toward the intersection at Mars and Buck Highway. He wants to know what this is about.

He reassured the Board that he has plenty of water rights sufficient to meet the 3.9 acre feet and that the water rights are indeed held jointly by Eli Max and the Town of Bayfield. Concerning the easement, he talked with Justin, he (David) does not have a problem granting it, but he does not think it should be a condition of approval.

All of David's other issues have to do with the Sanitation District. He said they gave him a bogus letter, which stated 'they reserve the right to serve'.

Joe Crain said that they decided to name the 60 foot easement as a street so that emergency services could get to the back lots. The water lines will be attached off of the new main.

Daryl asked, if the right of way is to be dedicated to the town, and if it is tentatively used as a public street, wouldn't the Town be responsible for maintaining it. Joe responded

that, in the SIA it will designate that the 60 foot easement will be 'driveway'. Daryl again asked, 'who would be responsible for maintenance?'

Dirk reconfirmed that the private drives were not included in the streets that the town agreed to maintain in the Fox Farm agreement. The easement would not be located in any area that needs landscaped. The people who buy the lots would have to be informed that this 60 foot easement would not be their land to develop or to landscape.

Rick Smith said 'we cannot record this plat.' David replied 'it is not an annexation'.

Rick responded that it is no different than Murray Mead, or Elston. Rick does not want to do anything that would jeopardize the work with the tribe or the State at this juncture.

This is an approval of a subdivision.

Rick remarked that, as a board member, he needs a clarification from the state before he would allow approval. Rick added, it *is* perception, and it is very important in the Towns relationship with the State. Daryl commented that the plat should reflect that the road will not be maintained by the Town. Ron Saba disagreed with what David says. If the Town can't get the easement, then basically the water line will lie next to the existing one. According to Ron, the water line replacement will take place before David can do anything with his subdivision.

The Mayor opened this for a public hearing. Darin Becker said 'this stuff has got to get done!'

David Black said "Ron will run the water line across 4 lots, if they (the town) are not granted a new easement." Rick said that it is in David's best interest to have the water line put in within a new easement. David repeated he does not believe that it should be a condition! Joe reminded the Board that, at the next meeting, they will have Brad Elder coming back with a final plat also.

Dirk reminded the Board that the resolution said the builder could progress, but that the plat could not be recorded. Justin said that, regardless of the resolution, they should just not approve this. It is the ability to sell lots, (the subdivision process). Dirk cautioned that there are enough loose ends as is, he advises the Board to wait. Daryl made a motion to continue this item until the next meeting, Carol seconded. Daryl wants to hear from the State before continuing this.

Justin said that the Town should have a definitive reply from the State by May 1. Daryl and Russ think the resolution should be revisited. Daryl amended his motion to read the 'May 1' meeting. Carol was in agreement with the amendment to the motion. The vote was four in favor, motion carried unanimously.

Joe asked that the Board members please save the paperwork for David Black's project so it does not have to be recreated.

The Mayor called for a five minute break.

The meeting was called back in session at 9:40 p.m. Rick Smith moved to go into executive session, citing C.R.S. 24-6-402 (4) (e), for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators. He requested that Justin and Dirk be included.

When the executive session closed and the regular session reconvened, Carol Blatnick moved to instruct staff to make an offer for property. Rick Smith seconded.

Justin can sign the offer. The vote was four in favor. Motion carried.

Action Agenda #9: Sanitation District Update:

Justin informed the Board that he has created an addendum for the compliance proposal. They conducted a telephone conference call a week ago. The State said the proposal amounted to a good faith deal. Their concern is, if and when the permits get issued, and the Sanitation District does not produce what was expected by the State, what recourse would they have. They want extra protection, extra guarantees. They want deadlines on proposals. The Sanitation District is expected to reduce the loads regardless. The Sanitation District has committed to discontinue service if they cannot comply. The responsibility is on each entity that is in violation. Most already have designs and are basically engaged in the process. Financial participation is mandatory. If those who are in violation do not comply, the sewer service will be cut and they will have no sewer services. There are issues that will need to be addressed, but the Town does have leverage. Regarding Capital improvement milestones, Justin offered up the time constraints for each.

He has asked them to let Bayfield issue permits, but the Town will have to meet the milestone deadlines. If Bayfield does not, the State will re-institute the moratorium. Justin is trying to substantiate the reduction of loading. The State keeps asking for more documentation, i.e., proof of response more to their liking. The State asked for input from the Tribe. Justin said that the State is being very cautious. He has not heard back from them yet. Justin mentioned that any subdivision is probably twelve months out, saying 'if you allow permits now, how do you know that the conditions will be met?' Russ asked if the board would allow Justin to call a special meeting if he hears back from the State. Justin asked for pre-authorization to allow him to go ahead with this process when he hears back, when the State tells him he can lift it, he will lift it. Dirk said that the Board would need to rescind Resolution 208. Rick Smith requested that, to keep things clean, give Justin the ok to go ahead, but that he should call a special meeting in order for the Board to rescind Resolution 208. Justin will need to post an Emergency notice 24 hours prior to the special meeting.

Rick Smith moved to instruct staff to continue to work with the State, to get the addendum accepted, to give Justin the latitude to work with the State on the specific issues and milestones they are requesting. When Justin hears from the State, he can call an emergency meeting for the purpose of rescinding Resolution 208. Russ seconded. The vote was three in favor. Motion carried. (Daryl left the meeting just prior to this motion).

Justin informed the Board that two citizens have proposed an initiative to dissolve the Drinking Water Revolving Fund. That is likely to cause concern in the market, and perhaps affect the public bond sales, as well as the interest rate. They need to analyze the market. If the rates increase, the options are very limited. Using a 'Worst case scenario' the loan would not be there.

Justin said that 'We will be sprinting until the plant is built. The Sanitation District did their annual audit, but an external audit has not been done. A more thorough financial audit needs to be done.'

There has been a lot of discussion about the Sanitation District not segregating their operations revenue from their capital funds revenue. Justin is encouraging the accounting

firm to track capital and operations revenues separately. He suggested perhaps 'Bayfield Capital' and 'Bayfield Operations'.

Action Agenda #10: Tone property:

Justin was to meet with them last Thursday. It did not happen. It will need to go on the next meeting agenda.

Action Agenda #11: Discussion Regarding Deferment Fees:

There was a short discussion regarding deferments. Dirk has not had a lot of time to work on this. The Board wondered if it would be more equitable to charge higher court costs.

Action Agenda # 12: Town Updates:

- a) Water Tanks: Justin has researched information on small water storage tanks. He also has to close out all documentation on the current tank.
- b) Nuisance Ordinance: The procedure is finally outlined. Dirk will write the letter, then the Town can deal with offenses administratively. Discussion involved getting people to hide their nuisances. The Board also wanted to know if there is an ordinance that addresses people who use residential land for business purposes.
- c) Meeting with La Plata County Commissioners: This is set for May 23, at 6:30 p.m. at Tequilas. Tequilas has confirmed the reservation..
- d) Daryl Yost has already mentioned the letter of support written by the County. They initiated this communication. The Town appreciates their continued support.
- e) Recycling: Justin is meeting with Michael Scannell to discuss the possibility of using county land or a portion of the joint maintenance facility for this purpose.

Rick Smith made a motion to switch Agenda item 13 and 14. Carol seconded. Motion carried.

Action Agenda # 14: New / Unfinished Business:

Pat had received an E mail from CML asking different municipalities to donate materials or money to the Town of Holly. They were the victim of a tornado, which destroyed much of their town. Justin thinks \$1,000 is appropriate, he said he could charge it to contingency. The Board gave authorization to Justin to send the money to them.

Concerning Resolution 208: The resolution states that the process stops at the recordation of plats. Rick Smith said it should be changed. There are currently two circumstances before the Board that do not quite fit the language of the resolution.

Joe Crain mentioned that Brad's park plan at the Dove Ranch subdivision will *require* developing, Brad is going to ask for full approval. Brad has asked that members of the board go out and take a tour of the area. He offered to supply golf carts for the excursion. Russ and Carol agreed to go. Russ made the statement that if the State agrees to Justins proposal, the park is a non-issue. The resolution benefits the developer.

Herm does not think he has the time, he is to check his schedule. Perhaps he can work it in anytime after Thursday of next week.

Darin Becker said that the people involved in sports park activity are blocking his driveway. Rick suggested that he ask Andy to go to the marshals department and ask for help. Darin replied that it is the towns responsibility to supply ample parking for the sports park functions.

Action Agenda # 13: Town Manager Evaluation:

Rick Smith moved to go into executive session, citing C.R.S. 24-6-402 (2)(f) for discussion of a personnel matter and not involving any specific employees who have requested discussion of the matter in open session, any member of this body or any elected officials, the appointment of any person to fill an office of this body or of an elected official, or personnel policies that do not require the discussion of matters personal to particular employees. Russ Jones seconded. The vote was three in favor. Motion carried.

The Town Board entered into executive session at 11:00 p.m.

The regular session of the Town Board reconvened, and a motion to adjourn was made.

Mayor