

**Town of Bayfield
Town Board Regular Meeting
February 20, 2007**

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

Staff Present: Justin Clifton, Joe Crain, Marianne Hicks, Dirk Nelson

Media Present: Carol McWilliams - Pine River Times

The meeting was called to order @ 7:02 p.m.

Minutes: Carol motioned to approve the minutes from the February 6th, 2007 meeting. Tom seconded the motion. All were in favor, motion passed unanimously. February 3rd TB Retreat: Carol motioned to approve the minutes from the February 3rd, 2007 Town Board Retreat. Rick seconded the motion. All were in favor, motion passed unanimously.

Public Input: Justin introduced Joelle Riddle, the newly elected County Commissioner.

Joelle introduced herself to the Board and told them that she is looking forward to working with them in many different capacities.

Tim Carl (3211 CR 501) with the Los Pinos Ditch Company thanked the Board for their help last year in addressing the Sunrise easement issue. He then explained that there is now another ditch issue in Cinnamon Heights. There is a duplex that is being built that is encroaching on the easement. He asked what the policy is for builders and surveyors that don't obey the platted easements.

Justin answered that Mike Shave, the building inspector, only inspects structures. There is no policy in place to inspect every set-back and easement in each development because this would require more man-power than the Town has available. Mike does document things that he notices with the naked eye but it is the private home builder's responsibility to make sure that they are building within their property boundaries.

Public input was then closed.

Action Agenda Item #1: Approval of the Bills

Carol made a motion to approve the bills as presented. Rick seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #2: Planning Commission Update

The floor was given to Robert Piccoli, the chairman for the Planning Commission.

Robert read his Planning Commission report. This report is included in the packet.

Action Agenda Item #3: Sanitation District Update

Justin gave his staff report. He explained that the Town staff has been working on the interim agreement for management and has also been working on identifying high commercial contributors, illegal dumping, and performing grease trap inspections. The staff has also been discussing the status of the sewer plant with the Southern Ute Tribe & the State. The State is very concerned about the effluent violations and it became very clear that the Town has to take some sort of action or the State will take their own action. Justin is asking the Board to

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consider passing a resolution (which will be discussed in the next agenda item) that will preserve as much normalcy as possible but will give a preface to the State that the Town is being pro-active and hopefully keep the State from completely shutting down the building permit process.

Action Agenda Item #4: Public Hearing & Consideration: Resolution 208 regarding Sewer Taps

Justin explained to the Board that this proposed resolution will place a hold on the issuance of sewer taps. Applicants would still be allowed to purchase building permits but they would not be allowed to purchase a sewer tap. Justin said that the Town understands that this could reduce the number of permits that are purchased due to the fact that most people are not going to be willing to take the chance that they may or may not be able to get a sewer tap when they are finished with their project. However, if the builders do decide to proceed without the promise of a sewer tap, the Town will review the permits when the house is completed to decide if it's possible to issue a sewer tap. The Town will meet with the State every few months and inform them of how many houses are ready to tap on to the system and quantify the load that they will contribute to the system. By looking at these on a case by case basis the Town will be able to do the following things: show the number of homes that are ready, document the impact that these houses will have, show the revenue that will be received if the taps are allowed, and show how the revenue is going to be spent to make the system better. If growth is stopped completely, the Town will not be receiving the revenue needed to finance the new plant.

Justin also explained that this resolution would not affect any builders that have already purchased their buildings permits & taps. They would be allowed to complete their projects, tap the system, and receive their Certificate of Occupancy. But the resolution will affect anyone that has not yet purchased their building permits. They will be allowed to purchase them but they will not be able to buy their tap and there will be the possibility that they won't be able to get their Certificate of Occupancy.

Niel said that he is worried about the small builder and about whether or not the small builder will be able to compete against the bigger builders for the available taps.

Justin said that the issuance of taps will be looked at by the number of houses that are ready for occupancy and are ready to tap into the system. The bigger builders may have a better capability of taking the gamble that this requires but it's a better solution than completely shutting down building permits. Everyone involved understands that if the Town is going to improve the current plant and build the new plant, the Town needs the revenue stream generated from building permits & tap fees. However, the State is not going to let the Town continue without putting some sort of interim solution in place.

The item was then opened to public input.

Robert Piccoli asked if it's even possible to put a house on the market with the sewer tap being purchased.

Dirk answered that the house can be put up for sale but a person cannot close a loan without a certificate of occupancy. The Town will have to make it very clear that it's unknown when sewer taps will be available.

Justin doesn't think that there will be a lot of builders that will take the risk of building without knowing when taps will be available. Therefore, he doesn't think that there will be very many houses ready for CO at one time and the State will probably be willing to allow a few houses to tap on to the system.

Pamela asked how this is different from the cease and desist order that was imposed by the State in 2006.

Justin answered that this is self-imposed and would not restrict building permits from being issued.

It was asked what is being done to make the problem better.

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Justin responded that the Town is working closely with the District to identify high commercial users, perform grease trap inspections, & to put a reward program in place that will reward those who catch people dumping illegally. They are also working with an engineer to come up with interim improvements that can be put into affect immediately. The possible solutions include eliminating infiltration, desludging the third lagoon, & possibly putting a dome over the lagoons.

It was asked when the mechanical plant is going to be online.

Justin answered that the Town is hoping that it will be completed and in operation by the fall of 2008.

Michael Snooks (388 Jackpot) asked if the Town is looking at a portable plant.

Justin answered that the Town is looking at any possible solution that will help fix the problem.

Jim Flint asked the Board to authorize Justin to put something on the ground. He feels that the situation is being over-analyzed and he thinks that the Sanitation District is going to mention the possibility of bringing in a package plant. He asked the Board to authorize Justin to run with the proposal. He feels that this resolution would be a moratorium and that the Town should take some physical action to keep the moratorium from being necessary.

Reed Ross (developer of the Fox Farm subdivision) explained that he has to borrow \$700,000.00 to finish the infrastructure of the Fox Farm Subdivision. He said that both the banks & the buyers have found out about this sewer issue and it's causing problems for his development. The banks don't want to lend the money unless there's a buyer and the buyer doesn't want to buy until he knows that he's going to get a house. Their project is at a stand still and he thinks that the best solution would be to get a package plant. He said that he doesn't understand the Town & the District's hesitancy.

Brad Elder (100 Jenkins Ranch Road) said that the solution to the sewer problem is to find what is causing the spiking in the loading numbers. He thinks that they have an 80% chance of finding it. The District is also working on the commercial loading & putting a lock down on manholes to help with the spiking. He said that he thinks that a package plant is a good idea and he is hoping that the District will be able to get one of these units on the ground. He said that a package plant would increase the capacity by 400 ERT's (Equivalent Residential Tap) and this would help get things back to business as usual.

Hunter Swanson (524 Dove Ranch Road) asked what is necessary to end this moratorium, when that could possibly happen and who would make the determination.

Justin answered that it's not easy to answer when it will end. The plant is exceeding the pounds per BOD (Bio-Chemical Oxygen Demand) allowed by the State permit. The plant is not capable of 100% compliance right now. A package plant isn't necessarily going to fix the current problem and the District has to spend the tax-payer's money in the best way possible. This problem has existed for a number of years and it takes time to come up with a solution. The Town and the District have to gain enough credibility with the State to move forward.

Ted Cafarrel (developer of Mesa Meadows) said that builders are not going to come to Bayfield and build houses without some guarantees.

Mike Snooks said that the builders of Bayfield are gambling to maintain the growth of the Town and that the Sewer District should be willing to take a gamble and purchase a package plant.

Ed Morlan (Chairman of the Sewer District) said that this whole scenario depends on who issues the moratorium. The Town is implementing this voluntarily but if the State demands a moratorium, it's very

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possible that it won't be lifted until the new plant is online. Ed said that he would like to see the Town continue this item until the next meeting and not take any action yet.

Justin responded that he doesn't think that the State will allow this issue to be continued any further.

Ed said that he would really like to hear what the engineers say before proceeding with the resolution. He said that the District has been looking at package plants but it will cost more than \$500,000 to make a dent in the problem unless the organic loading coming into the system is reduced.

Brad Elder said that he is looking at some different types of package plants that may be more cost effective.

Hunter Swanson asked if the Town imposes the moratorium, would the Town Board make the determination to lift it.

Justin answered that the State has jurisdiction over the District. The Town Board and the District would have to work together to make the decision and would have to get the State's approval.

Mike Snooks asked if there is grant money available to help with the problem.

Justin answered that the Town and the District are looking into every avenue possible for grants. They have already received 1 grant and are keeping their eyes open for another.

The public hearing was then closed.

Rick stated that the Town needs to control their own destiny or the State will control it. The Town only has two options and he feels that they need to do what is necessary to maintain control. He said that he knows that it's not an easy thing for the people that have invested in Bayfield but that something needs to be done so that building isn't shut down completely. He feels that passing the resolution would be a proactive approach and would be the best decision to help the problem during the interim period until the new plant is built.

Niel said that he thinks there are culprits dumping pollutants into the sewer. He would like to see them found, caught, & prosecuted.

Russ said that the Town needs to give the public the confidence that they are doing everything they can and that they will continue to work diligently to get everything sorted out in time for the building season this year. The Town needs to gain the public's trust once again by doing whatever possible to resolve the problem. He told Justin that he appreciates what he is doing.

Tom said that the Board has to pass the resolution or everything is going to be shut down. He suggested pestering the engineers daily until this is resolved.

Justin said that he is already doing that and that he will continue to contact them everyday.

Rick made a motion to approve Resolution #208 imposing a temporary suspension of certain activities in the Town to prevent impacts to the sewer district (the version that was left on the dias). Carol seconded the motion.

Rick said that he would like the staff to provide some clarification, tighten up the procedure, define need and make a clear process of how things are going to be handled. He instructed Justin to continue to make improvements to satisfy the State so that this issue can be resolved as quickly as possible.

Niel thanked everyone for coming to the meeting and voicing their concerns. He encouraged them to attend the sewer meeting on Wednesday evening.

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All voted in favor, motion passed unanimously.

A short break was requested @ 8:30 p.m.

The meeting was called back to order @ 8:45 p.m.

Action Agenda Item #5: Consideration of Agreement for Management Of The Sanitation District.

Justin said that the staff has been working on the management agreement with the Sanitation District. He said that the new agreement will solidify the arrangement. He asked the Board if this document meets their approval and if they would be willing to allow him to finish ironing out the remaining details to make it a workable document and then get the Mayor's signature to get it into affect as soon as possible.

Carol so moved. Rick seconded the motion.

Russ asked if this management agreement is going to create additional tasks for the current staff.

Justin answered that it will definitely create more work for the staff and that this contract will stipulate that the Town can hire more personnel if needed.

Ed Morlan asked if the agreement will address the dissolution of the District.

Justin said that the dissolution is mentioned.

Ed said that he is concerned about the loan application and the grants that are currently being processed. He doesn't want to lose these things because of the change-over. He also mentioned that there has to be an election for this dissolution to occur.

Dirk stated that all of these things will be discussed at the Sanitation Board meeting.

All were in favor, motion passed unanimously.

Action Agenda Item #6: Town Hall Update

Justin gave his staff report. He stated that the Board needs to decide on the lease price for the County's portion of the new Town Hall. Justin provided the Board with a brief analysis that gives 3 different scenarios. The scenarios are estimates that give a basic understanding of lease prices. He informed the Board that they need to determine a starting lease rate which will be increased using a 3% escalator rate beginning in 2008. He said that any of the 3 scenarios will cover the Town's cost to build this space in the Town Hall. The lease price would only cover the space used; it would not include maintenance, cleaning, etc.

Carol said that she thinks the \$1.33 per square foot is sufficient since Bayfield residents are also County residents.

Rick concurred with using scenario 3 because the Town should only ask for enough to cover the costs of the building that the County would occupy.

Daryl made a motion to use scenario 3 on the County Lease Rate Analysis as the lease rate for the County's portion of the new Town Hall. This scenario is \$1.33 per square foot. Rick seconded the motion.

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Niel asked about cost overruns.

Justin answered that the County is interested in fair market value for the lease. This figure would not cover cost over-runs. The figure will pay interest and principal but will not include demolition, site work, landscaping, and fixtures.

Rick said that the County will be a tenant in the building. They have no ownership rights and the Board is just setting the rental price. Unfortunately, the Town cannot renegotiate the rent if there are cost overruns.

Justin said that the costs will be very closely monitored.

All were in favor except Niel who was opposed. Motion carried.

Marty Zwisler showed the Board the architects proposed drawings of the new Town Hall to get the Board's opinion on the schematics.

The Board made several comments and requested a few changes. It was asked that the building be less contemporary and more western slope. They want something that blends in with the surrounding area.

Marty stated that he will give all the information he's gathered the Board & the Town staff to the architects and is hoping to get some revisions back very soon.

Action Agenda Item #7: Senior Center Update

Justin gave his staff report. He said that the Senior Committee had a meeting and finalized the RFP (Request for Proposal) for the architect. Advertising was done throughout the State for the RFP. They are going to review the proposals on March 22nd, and they are hoping to do interviews shortly after that date. The Town is still working on the IGA (Inter-Governmental Agreement) with the County.

Action Agenda Item #8: Mill Street Brews: Approval of Liquor License Renewal

Rick made a motion to approve the liquor license renewal for Mill Street Brews. Niel seconded the motion. All were in favor, motion carried unanimously.

Action Agenda Item #9: 3.2 Liquor License for Giant Industries, Inc

Justin explained that this item was continued from the previous meeting. The Board requested that the petition for needs & desires be reposted at the facility. The new petition shows 13 people in favor & 12 people opposed to the liquor license being granted. Since the decision of the community is split, it is up to the Board as the Liquor authority to make the decision on this matter.

The item was opened up for Public Hearing.

Francis Miller (manager of the store) stated that she is okay with the liquor license but that she was very surprised when it was brought in to her because her corporate office did not tell her that they were applying for the license. There is only going to be 2 beer doors in the store and she said that it will definitely help their business because they do get a lot of requests for beer.

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Pamela Smith stated that she signed the petition in opposition because she doesn't think that it's a good idea to sell alcohol so close to the highway.

The Public Hearing was then closed.

Daryl made a motion to approve the 3.2 liquor license for Giant Industries, Inc. Tom Au seconded the motion.

Niel stated that he feels he should support the people who said no on the petition.

Rick, Russ, Tom & Daryl voted in favor of the motion. Carol & Niel voted in opposition. Motion carried.

Action Agenda Item #10: Discussion Regarding Piping The Bean Ditch @ Joe Stephenson Park

Justin told the Board that he needs the Board to make a decision on whether or not the Town staff should help out with the work involved with piping the ditch. Gerald has requested this of the Town because he feels that the Town has a responsibility to mitigate the problems that the Town has caused to the ditch.

Gerald told the Board that they have decided to go ahead and use the current ditch to do the piping. They no longer need the granting of an easement because the amount of fill that would be needed to fill in easement would cause a drainage issue into the ball field and he doesn't want to do that. But he did ask for the Town staff to help with the work being done.

Daryl said that he doesn't think that the Town staff should help with the piping of the ditch.

Tom said that if the ditch is straightened out there would have to be at least 2 feet of fill put in and it could definitely cause a drainage problem plus it will be expensive. He said that he had spoken with Gerald and they had decided that it would be best just to pipe in the existing ditch.

Russ stated that he feels that the Town is going to be involved in this process regardless.

Justin said that he agrees that the Town will probably have to be involved in some way. He asked the Board for their direction on whether or not the staff should participate.

Rick said that he doesn't want the Town staff to participate.

Gerald said that that he feels that the Town caused the public nuisance to the ditch and that they should participate in installing the pipe. He said that he doesn't think he is asking for very much because all he needs is a little bit of labor.

Rick said that it the ditch owner's right to do what is best for their ditch but that he stands by his view should not be involved in the process.

Niel said that he thinks that if the Town gets involved that the Town would be opening itself up to a liability situation. He feels that the Town should eliminate the possibility of liability. He said that he also wanted to go on record that he is opposed to the piping of the ditch but since it is going to happen he doesn't want the taxpayer's money to be used to help.

Russ made a motion to instruct Town staff to cooperate with Gerald Ludwig by helping install the pipe in the Bean Ditch. Tom Au seconded the motion.

Niel asked for clarification about what type of work will be done.

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Justin explained that it would only be dirt work.

Russ amended his motion to state that the Town staff assists with dirt work only. Tom seconded the amendment.

Russ and Tom voted in favor. Carol, Rick, Daryl, & Niel voted in opposition. Motion failed.

Niel asked the Town Attorney if Town would be liable for the ditch if anything should happen.

Dirk answered that there would be many people named if a lawsuit should ever occur. The real liability would stem from the installation, the design, and the direct maintenance of the ditch. However, the liability is very limited and the Town does have insurance for these types of instances.

Action Agenda Item #11: Public Hearing: Dove Ranch Unit 3 Plat Correction

Joe Crain gave his staff report. He stated that Brad Elder is requesting an amendment to the Dove Ranch Unit 3 Plat. Unit 3 is the multi-family zoned area of the subdivision. The requested action involves Blocks 8 & 9 which have alley loaded lots on both sides of the development. The plat was approved with a 20' front yard setback on North & South Taylor Circle and Brad is requesting to reduce that setback to 15'. The reasoning for this proposal is that it will allow more maneuverability in the alley. The Fire Department stated that they support this request and the builders in the area also are supportive. This action would be done through a correction plat. Staff feels that this reduction would help with emergency services and would be more convenient for the home-owners.

Rick asked about the existing house.

Joe answered that the structure will be excluded. However, any additional fences or structures will have to abide to the new set-backs.

The Mayor asked the width of the alley.

Joe answered that the alley is 20 feet wide but the addition of the 5 feet on either side will make it 10 feet wider.

The floor was given to Debbi Renfro, engineer for Dove Ranch.

Debbi stated that this correction will really help give the alley a nice flow and will help with the ability to move up and down the alleyway.

The item was opened for Public Hearing.

None was offer so it was immediately closed.

Carol made a motion to approve the Dove Ranch Unit 3 Plat Correction. Tom Au seconded the motion.

All were in favor, motion passed unanimously.

Action Agenda Item #12: Meeting Posting Locations

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Justin explained that State statutes require that each Town affirm two posting locations for the Town Agenda. The current locations are the Town Hall and the Post Office. He asked for a motion approving these locations.

Rick so moved. Russ seconded the motion.

All were in favor, motion passed unanimously.

Action Agenda Item #13: Tone Property Update

Justin said that the Town has been in negotiations with the Tone's for quite some time on a piece of their property. This property is a possible location for the water salesman. However, the negotiations with the Tone's have never been finalized and a contract has never been signed. The original contract stated that the Tone's would receive a free water tap in exchange for the trade of the property. The Tone's have already received this water tap, but the contract was never finalized. Justin is resuming the negotiation with the Tone's because the location would be a good place for the water salesman.

Dirk explained that a contract was written but the Tone's never signed it. They did receive their water tap but they decided not to proceed with the finalization of the contract. He thinks that they reconsidered their previous negotiations. Dirk said that it is not unreasonable for the Town to renegotiate this deal.

Justin asked the Board for direction about whether or not to pursue the negotiations along the lines that are already drawn up and further research the site for the water salesman.

Dirk said that this negotiation could be changed to make it agreeable to both parties.

Daryl said that Justin should pursue the negotiations with the Tone's and work on a location for the water salesman. He told Justin to find out if the Town owes the Tone's money, why they hesitated on the original design, and to go from there.

Action Agenda Item #14: Town Updates

Water Storage Tank:

Justin said that they have finished 2 rings and are working on the roof. The project may exceed their original schedule but they are hoping that it will be completed in March. Staff will be requesting reimbursement from the EPA grant and is also working on the other grants.

Children, Youth, & Family Master Plan:

Justin explained that the Town will be making a \$1,000.00 donation to the Children, Youth, & Family Master Plan. He also told the Board that they will be holding a comprehensive presentation on February 23rd @ 10:00 a.m. in the Chief Ignacio Room at LBC. He encouraged anyone interested in youth affairs to attend because this program has shown some extraordinary results.

Action Agenda Item #15: New/Unfinished Business

Niel stated that he would like to see all violators of sanitation pollution prosecuted. He also asked if it is possible to ban garbage disposals in commercial businesses.

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Dirk responded that a decision like that would have to be bolstered by a decision by the Sanitation District.

Justin said that commercial users are not allowed to exceed 300 milliliters of waste into the sewer. The Town and the District are working on way to police this policy. They are working on installing sampling ports which will show each users contribution to the system. They are hoping to get the businesses in compliance without having to shut things down.

Carol requested that the Town codes be enforced more strictly. She stated that there are junk cars, trashy yards and public nuisances all over Town and she would like to see people receive citations if they do not abide by the Town codes.

Carol said that there are big holes in the old area of Town and she would like to have these looked at and figure out if there is a way that they can be fixed in this budget year.

Carol asked that the staff and the Board do a better job thanking the volunteers. She feels that the volunteers need to be recognized for the work they put into the big Town events.

Niel asked if there is a way that the Town can welcome new businesses.

The Mayor stated that La Plata Road is in very bad disrepair.

Daryl asked that the staff work on getting a street sweeper.

The meeting was adjourned @ 10:45 p.m.