

**Town of Bayfield
Regular Town Board Meeting
11 W. Mill Street
Bayfield, Co 81122**

August 5, 2008

Town Board Present: Russ Jones, Justin Talbot, Mayor Rick Smith, Tom Au, Dan Ford, Debbi Renfro, and Robert Piccoli.

Staff Present: Justin Clifton, Town Manager, Pat Anselmo, Clerk, Joe Crain, Planner, Dirk Nelson, Town Attorney. Marty Zwisler, Project Manager, was also present.

Planning Commission: Not represented.

Media: Melanie Mazur, Pine River Times

Mayor Rick Smith called the meeting to order at 7:00 P. M.

Approval of Minutes: July 1, 2008, July 15, 2008:

Tom Au moved to approve the minutes of July 1, 2008 as written. Justin Talbot seconded. The vote was seven in favor. Motion carried.

Tom Au moved to approve the minutes of July 15, 2008 as written. Bob Piccoli seconded. The vote was seven in favor. Motion carried.

General Public Input: Hunter Swanson, 524 Dove Ranch Road, spoke about his concerns regarding infrastructure in his locale. He has heard that the water pipes are not a 'circular closed delivery system'. Justin C. responded that one reason for the existing design is the chlorination process. 'The Town has the capability of increasing the amount of chlorine if necessary'. Justin added, he did not know what it would take to get it dedicated. It would probably cost at least \$200,000. Hunter queried, 'there are no plans to change it in the near future?' Justin answered 'no'. He reassured Hunter that the Town is very thorough when it comes to water quality testing.

David Black, 606 Buck Highway, addressed the Board, saying 'when you look at the upcoming budget, please consider including a cross walk at the bottom of Fox Farm Road where it joins the Buck Highway. Since the trail has been established, many people are using it. There are lots of kids on the trail going to and from school. It is greatly needed and it would be greatly appreciated'.

David MacLaird, 721 North Mountain View, requested speed breaks on their road. He said that increased traffic resulting from new development is causing people to tend to go faster than the posted speed limit.

Agenda Modifications: Russ Jones made a motion to add an item to the agenda, placing it at Item #7 B, to enter into a discussion promoting an ordinance to limit plat extensions.

Debbi Renfro seconded. The vote was seven in favor. Motion carried.

Action Agenda #1: Approval of Bills:

Justin Talbot asked if the (street) sweeper is up and running. Justin C. said he would check into this and get back to the Board with an answer.

The Board asked, again, ‘are we done moving contaminated soil?’

Marty replied that they are ‘pretty much done’ moving dirt. He added, (regarding the new Senior Center) the utilities are in, the foundations are in, all contaminated soils are gone.

Justin C. said there is a rumor going around. He wanted to quell it immediately, ‘we are taking care of all contaminated soils!!! We have hired environmental engineers, done all the proper things. The soils are being taken to a legally designated dump site.’

Dan Ford moved to approve the payment of bills as presented. Russ seconded. The vote was seven in favor, with Tom Au abstaining from the vote pertaining to payment due his company. Motion carried.

Action Agenda #2: Town Updates:

Justin told the Board that the Town has found the source of water into Sunrise. It is a bleeder valve for the irrigation system. It is just ground water. It is the responsibility of the HOA.

Action Agenda # 3: Park Vendor Issues:

Justin said this subject has come to the forefront again, it continues to be an issue. The Town has never had a firm policy on use of it’s parks for vendors. The farmers market is a community activity, and they have been selling ‘unmanufactured goods’ non-commercially. Recently, there have been vendors at Roadside Park, selling prepared food (hotdogs, hamburgers, etc). Attention is focused on Roadside Park right now, but it may grow to include other parks. Because of access issues, CDOT had specifically mandated Roadside Park would be used for ‘park functions’ only. They felt that vendors would cause more traffic, and more hazards. Public parks are not meant for vending, with the exception of special events. Justin needs feedback from the Board to establish a concrete policy. Jimmy Mueller, who owns the Pit Stop, has been conducting a vendor booth at Roadside Park. He would like to be there three days a week, selling sausages, pepper steaks, hamburgers and hot dogs.

Rick mirrored the concern to the Board, ‘do we need a policy? If so, what direction do you want to go?’ Tom Au said CDOT will take the Roadside Park back if the Town allows any other use but ‘park’.

Bob Piccoli said this will grow into a problem, especially if we don’t have a policy. Maybe we could issue permits. However, CDOT policies are black and white. Dan concurs that the Board needs to establish a policy. The farmers market has an agricultural background. Anyone who does not fall under ‘farmers market’ is in competition to existing businesses. Debbi thinks licenses, perhaps similar to business licenses, could be issued.

Justin T. was concerned over the Town’s liability in allowing vendors along the road. ‘What would be the liability, to what extent would it exist?’

Justin C. said the Town has been slapped on the wrist by allowing vendors (during special events) who have not been ok'd through San Juan Basin Health, and rightly so. Russ said that times change. A lot of people will want to be in the parks. Staff will take the brunt of that usage. Just cleaning up after events is a major undertaking. He is against allowing any thing other than farmers market. Permits or licenses would be too much of an accounting nightmare, adding to the work load for staff. The park is not ours, it's the Towns. 'If we risk losing it, we risk losing it for the whole town.'

Justin C. warned, 'if we go to CDOT, it will raise a red flag. They will want a study, it will take time and it will cost money'. Justin C. recommends the policy be strict, to allow only the farmers market.

Rick remarked, the Town bought it with a certain understanding. Dirk concurred, 'it (the restriction for use) is in the deed.

Rick does not think CDOT would be flexible. He doesn't think staff should take on anything without a policy. Justin T. does not want to allow anything that might offend CDOT. 'Define 'farmers market' and stick with that'.

Rick asked that Justin do some research to see what the rest of the State does and bring back some options.

Bob cautioned, CDOT will kill it if we approach them.

Dirk reiterated, 'don't allow commercial enterprises'.

Bob asked 'isn't Gott Brothers commercial?'

Bob suggested the man who wants to conduct his vendor business out in this area ask the owner of the R.V. park if he could do business there.

Rick added, limit it to Saturdays only.

Dan Ford moved to prohibit vendors in all parks with the exemption of Saturday morning vendors during the summer in Roadside Park.

Motion died for lack of a second.

Russ moved to deal with only Roadside Park, only on Saturdays, during summers only, and to allow the farmers market and other vendors *associated with* farmers market at Roadside Park. Tom seconded. The vote was seven in favor, motion carried.

Action Agenda # 4: Nuisance Ordinance:

Tom Bennett has asked that the nuisance ordinance be applied to Steamworks and Hongs Garden, citing the odor generated from each business. Justin C. said this is a different situation because they are both situated in commercial zones. Which, by reason of interpretation, meant it was anticipated that business would occur there.

Odor can be a natural by- product of commercial zones.

The nuisance ordinance applies to other areas which are not zoned commercial.

When (brew pubs) are brewing beer, odors cannot be abated.

Justin asked for the Boards input on what they interpret as a reasonable application of the nuisance ordinance.

Rick asked Tom Bennett to explain the situation a little more. Tom said Hongs exhaust fan blows straight into his home. He feels it is negatively affecting his health.

He knows at least thirty to forty people have complained to the Town about this.

Rick reworded the issue, 'does this ordinance apply in this situation? These are businesses located in a commercial zone that abuts up to a transitional zone. Does the nuisance ordinance apply to this specific situation?'

Dirk followed with that fact that these are legally permitted businesses. Justin entreated the Board, 'are restaurant odors a candidate for 'nuisance'? Rick stated, 'when we develop the east side, we will have more commercial zones next to residential'.

Russ does not interpret the ordinance as applicable to commercially generated 'odors'. Dirk said that summons have been issued to *residents* who have created nuisances that were perceived as impediments to health.

Russ asked if odor in and of itself is a nuisance. He then asked, what is normal restaurant odor? Does it devalue the surrounding property? Rick interprets the situation to reflect that the two businesses mentioned are legally operating restaurants situated in an area zoned for that kind of activity. Bob said 'this does not qualify under the nuisance ordinance. It is a permitted use.' He suggested that Tom go directly to the business owners to see if they cannot incorporate some method of re-directing the flow of air from their exhaust fans.

Rick asked for direction from the Board, 'does the nuisance ordinance apply to smells generating from restaurants?'

Russ moved that the Town would not consider odor caused specifically from general operations of restaurants as a nuisance, as interpreted by the Board, and as defined in the nuisance ordinance. Dan seconded. The vote was seven in favor. Motion carried.

The Board then directed staff to take action, and do what ever can *reasonably* be done to mitigate odor emitted from Hongs Garden and Steamworks Restaurant.

Bob said 'if Steamworks made a commitment to re-direct odor, make them stick to it.'

Justin said he will do everything 'feasible'

Action Agenda # 5: La Plata County Intergovernmental Agreement For Sewer Plant Building Inspections:

The IGA in the packet would allow the Town to handle all of the permitting for the new sewage treatment plant, using the Town's building inspector to do the necessary work. Dan Ford moved to approve the Intergovernmental Agreement with La Plata County for sewer plant building inspections. Tom Au seconded. During discussion it was suggested to include 'delegating the Town's building official for the work' in the motion. Dan so moved to modify the motion. Tom seconded on the amended motion. The vote was seven in favor. Motion carried.

Action Agenda # 6: Gem Village Contract:

Justin C. had exhibits ready this evening. Section 19.2 modified the limited liability amount to \$1,000,000.

He and Dirk are comfortable with the one million liability limit. Bob Piccoli pointed out that the contract still reflects 'clients'. He asked that 'clients' be changed to 'owners'. He also said Section 24: 'separability' needs to be changed to 'severability'. Bob had questions concerning the exhibits. They do not reflect any mention of crossing the irrigation ditch. He asked if the Town would have to cross the irrigation ditch. It didn't mention crossing the Pine River. That would require oversight by the Army Corp of Engineers. The Town would need to get the necessary permits to cross the river. Justin said the project would not require crossing the river.

Bob continued, in Section 6.1, regarding construction support, they are saying the submittal process will be the responsibility of Bayfields Public Works.

'Is our public works department ok with that?' Justin explained, 'we do the inspections. However, it does need more clarity regarding what point in time they would review submittals. They will do this particular service under the scope of their contract, i.e., with no increase in costs'.

The Town and Souder Miller would be involved with the punch lists. This work is their design. They should have to issue a Certificate of Completion, taking on any responsibility for things not done correctly.

Justin wants to make sure that everything that the Board wants is in the contract.

Rick reaffirmed, 'if they do the reviews, there will be no additional fees due them'.

Tom spoke concerning the easements, 'they don't mention anything about highway rights of way'. Those should be reflected.

Justin asked the Board if they want him to modify the contract and then bring it back for their approval, or would they be willing to approve the contract contingent upon the changes addressed tonight being inserted. Bob Piccoli moved to approve the contract with Souder Miller, contingent upon the comments and changes made earlier tonight to their professional service agreement, including but not limited to paragraph 1.3 to 3.3 (exhibit #1) concerning CDOT easements and, reverification that additional reviews would not result in extra fees being charged by them. Tom seconded. The vote was seven in favor. Motion carried.

Action Agenda # 7: Public Hearing Ordinance #338 – 911 Emergency Service Fees:

The Emergency Telephone Service Board allocates a surcharge on resident's telephone bills to support dispatch services. The charge is currently seventy cents. Their Board is requesting that the participating communities adopt an ordinance granting approval to continue with the 70 cent charge.

Rick opened the meeting for public for comment. David Black said, 'this is cheap!'

Rick closed the public hearing. Tom Au made a motion to approve Ordinance # 338, an ordinance of the Town of Bayfield, Colorado authorizing the Emergency Telephone Charge to Be Imposed On Telephone Service under the Provisions of C. R. S. 29-11-102, et seq. Bob Piccoli seconded. The vote was seven in favor. Motion carried.

Action Agenda # 7A: Plat Extensions:

Developers have requested that their final plat recordation dates be extended, some several times. Staff needs to develop a solution. Tracking these extensions have created a burden on town staff. The potential for problems increases exponentially when they keep extending, extending, extending. There are currently four final plats that have been approved but not recorded. It is very difficult to manage, placing some plats in 'limbo'. Russ made a proposal to limit extensions from six months to a year. At that time the initial approval of the final plat would no longer be valid. 'Having them hanging out makes management extremely difficult'.

A Final plat is normally required to be recorded within ninety (90) days after approval. Because there are so many variables, the number of lots, size of lots, types of lots, etc. the Town needs a different model,

Russ said, 'make it simple. This is our limit for now'. Debbi Renfro agreed, this (limit the number of extensions) would be good, because different standards may be set in the future. The developer should have to back through the permit process again. Joe Crain cautioned, 'what ever you decide to do, it needs to be reflected in the Land Use Code'.

Action Agenda #8: Bayfield Heights Re-subdivision- Extension of Final Plat Validity:

Regarding Bayfield Heights Re-subdivision, the validity of the approved plat expires August 6, 2008. David Black is requesting an additional 90 days. Staff recommends the extension be granted (due to extenuating circumstances) for ninety days, setting the new deadline at November 6, 2008. Russ so moved. Bob seconded. The vote was seven in favor. Motion carried.

Action Agenda #9: Public Hearing: Chamber of Commerce Special Event Liquor License (Heritage Days Sept 13, 14)

The Mayor opened the meeting for a Public Hearing to discuss the approval of this special events liquor license. Arlene Longfellow said she would love to have this permit granted. Rick closed the public hearing, and asked for consideration. Russ moved to approve the Special Events Liquor License for the Chamber of Commerce for September 13 and 14. Dan seconded. The vote was seven in favor. Motion carried.

Action Agenda #10: Public Hearing- Resolution #224: Determining Compliance and Initiating Annexation Proceeding- Byrd Annexation:

Any action determining compliance of annexation processes should be covered by resolution. This applies to both the Byrd and Southviews parcels

The Mayor opened the meeting for public hearing. No comments were received. The public hearing portion of the meeting closed.

Adopting this resolution formalizes the decision made to determine sufficiency and compliance on the request for annexation of the Byrd properties.

Tom Au moved to pass Resolution 224, a resolution of the Town of Bayfield, Colorado finding Substantial Compliance and initiating Annexation proceedings for the Byrd property. Russ seconded. The vote was seven in favor, motion carried.

Action Agenda # 11: Resolution #225: Determining Compliance and Initiating Annexation Proceedings- Southviews Annexation:

This is identical to the previous resolution except it pertains to the Southviews Annexation process. Rick opened the public hearing. No comments were received. The public hearing closed. Tom Au moved to adopt Resolution # 225, a resolution of the Town of Bayfield, Colorado Finding Substantial Compliance and Initiating Annexation Proceedings For the Southviews Annexation. Bob Piccoli seconded. The vote was seven in favor. Motion carried.

Action Agenda # 12: New and Unfinished Business:

Justin commented that the RHA would like to meet with the Town Board.

They want to know explicitly what the Board wants them to do. Justin suggested the Board could meet early before a regular meeting instead of calling a special meeting. Council said August 19 at 5:30 p.m. would work. Justin will send out e mails for reminders, saying 'we will feed you'.

Justin talked to Don Magill, who would like to schedule some sort of sewer plant ground breaking ceremonies with the School Board, getting both boards involved, nothing official, just socializing. Russ said not to schedule anything until other issues are settled, which includes getting the access finalized.

The Town offices will be moving September 15. Maybe during the September 16 meeting, the Town could schedule an open house at the new facility.

Justin has met with Durango's city manager, Ron Le Blanc. He wants to get together, at the end of September sometime, saying they were really interested in working cooperatively with the surrounding towns. He wants Bayfield to be involved with Durango in the long range planning design, involving managers and elected boards. Justin said 'Ron LeBlanc wants to help us'.

Dan said he will be gone August 19. He asked Justin if staff had researched the camper trailer out behind Clover Drive. Justin replied, no, not yet.

Tom asked if Council wanted to discuss speed bumps. The circumstances on Mountain View will not improve without speed mitigation of some sort. Justin commented, if the Town does this for Mountain View, they will expected to place speed mitigation on other roads around town, everywhere there are speeders. They need to get a crosswalk at Fox Farm and Buck Highway done immediately.

Debbi said Durango has an ordinance to allow golf carts on all roads, 'we need to think about this. Currently any kind of electric motorized vehicle is not allowed in Bayfield. They (Dove Ranch residents) cannot use their golf carts on Dove Ranch Road'. She requested the Town look into this matter.

Action Agenda # 13: Executive Session: C.R.S. 24- 6-402 (4) (a): Tom moved to go into executive session, citing C. R. S. Section 24- 6- 402 (4) (a) to discuss property acquisition, to include Justin Clifton and Dirk Nelson. Bob seconded. The vote was seven in favor. Motion carried.

The Board moved into Executive Session.

After the executive session concluded, the regular meeting re-convened.

No formal action was taken.

Motion to adjourn.