

**TOWN OF BAYFIELD
REGULAR BOARD MEETING
11 W. MILL STREET
BAYFIELD, COLORADO 81122**

JULY 15, 2008

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

Staff Present: Justin Clifton, Town Manager, Joe Crain, Planner, Pat Anselmo, Clerk, Dirk Nelson, Town Attorney, and Jack McGroder, Management Intern.

Media Present: Carole McWilliams, Pine River Times
Karen Bosche, Durango Herald

The Mayor called the meeting to order at 7:05 P.M.

General Public Input: Rick asked if anyone would like to offer public comment at this time. Melanie Mazur, organizer of the Heritage Days parade for this year, spoke. She discussed the schedule for the parade and the events. They have many activities planned. They are going to have an old (classic) car show. There will be a flea market in Gem Village. Bayfield is hosting a quilt show. There will a 'cowboy church' held. The events will be posted on line. The 'no sheep' was a result of the owner of the sheep bowing out. They incur too much cost renting pasture. It is also because of the timing. It is not the right time of the season to bring the sheep down. She handed out copies of the Pine River Times that listed the events, and said their article was on page eleven. She wanted to verbally go on record to thank the PRVB, she said they have been a great help. Carole McWilliams, spoke. She said the Chamber of Commerce met yesterday. They did not notify staff that they needed to be on the agenda in time for packets. She requested that Council allow them to be placed on the agenda for this evening, after item #6, to discuss their request for a Special Events Permit. Tom Au made a motion to add 'Chamber of Commerce request for a special events permit' after line 6 of the agenda. Debbi seconded. The vote was six in favor. Motion carried.

Action Agenda Item # 1: Approve Bills:

Questions were posed once more, concerning bills for removal of contaminated soils, (Senior center). Justin said these were among the final bills, and assured the Board that costs according to the contract were still under budget. Dan moved to approve payment of bills as presented. Tom Au seconded. The vote was six in favor. Motion carried.

Action Agenda Item #2: Town Updates:

Justin asked that the Planning Commission report submitted by Joan Hanna be considered under this agenda item. Rick asked if anyone had questions concerning the items listed.

Concerning Sunrise: The Board asked for a verbal report from Justin on Sunrise. Justin said he had met with Bruce Honisch from Goff Engineering. They are developing cost estimates for remediation of the swale. The conclusion is that, most likely, piping would be the most costly. They are concentrating their ideas on the reconstruction of the swale. There needs to be a buffer for the swale. They should have a rough estimate on the costs within two weeks. The Town does not have a commitment on the part of the developer. Debbi needs to investigate the pipe that is going into the pond (the mystery pipe). Tom suggested that she touch base with Johnnie Hemphill. Tom said Johnny did a lot of the work out there. Tom is to get a contact number to Justin.

Concerning Cinnamon Heights: Dan asked what was going on with Cinnamon Heights, i. e., ‘How will this affect us?’ (regarding the tentative sale of the properties). Dirk said that basically all agreements flow to the Town. A lot of the remedial work has been done, but legally the balance comes through to the Town from the new owner. The buyer saw the punch lists, and was made fully aware of all of the unresolved issues.

Concerning David Black: Justin still needs to set up an appointment with David Black to discuss the work that remains undone on his property.

Action Agenda Item # 3: Resolution # 221: Support for Locating a Federal District Court in La Plata County:

All documentation regarding this item was in the packet. Two County Commissioners, Kellie Hotter and Joelle Riddle were present. They were requesting the Town’s support in their effort to procure endorsement for their petition to gain a Federal District Court Facility in La Plata County. The vision is to have a host facility in La Plata County. They need space for the courts. Colorado is the only state that has only one Federal District Court House, which is in Denver. Kellie said ‘we house two sovereign nations’. The Bureau of Indian Affairs is in support of this effort. Representatives from Ignacio, Pagosa Springs, Durango, Mancos, and Cortez met with Governor Ritter. He supports the effort as long as it is a non-financial commitment from the State’s standpoint. The Commissioners would like to have the facility located in Durango, as the economic hub. Joelle said the Ute Mountain Tribe was first to pass this. They are waiting for the Southern Ute Tribe to sign on.

Tom Au moved to pass Resolution # 221, a resolution of the Board of Trustees Of the Town of Bayfield, Colorado In Support of Locating A Federal District Court in La Plata County. Bob Piccoli seconded. The vote was six in favor. Motion carried.

Action Agenda # 4: Resolution #222: A Resolution Of The Town Of Bayfield, Colorado Approving The Second Amendment To The Intergovernmental Agreement Establishing The Regional Housing Alliance of La Plata County, and Authorizing the Town To Become a Member Of The Regional Housing Alliance.

Justin verbalized his desire to sit on the Regional Housing Alliance Board. Russ expressed his interest as well in being a part of this alliance.

Tom Au moved to pass Resolution # 222, approving the second amendment to the IGA establishing the Regional Housing Alliance, and authorizing the Town to be a part of the RHA. Bob Piccoli seconded. During discussion, it was asked if this would be an annual procedure. The answer was yes. It has to be approved each year during the budget

process. It will be evaluated on an annual basis. The vote was six in favor. Motion carried.

Rick asked for volunteers that would like to become members of the RHA Board . Debbi said she would like to be considered.

Action Agenda Item # 5: Resolution # 223: Acquisition of School District Property:

This pertains to temporary easements, nothing of substance has changed. This document is necessary for closing, according to Dirk. He explained, the resolution refers to the relocation of easements and exchange values. There is no cash involved. It provides for a ratification of a contract between the Town and the School District to buy and sell real estate. This is necessary in order for the Town to relocate the sewer line. The easement to be acquired covers approximately 1.1 acres.

Tom moved to approve Resolution # 223 authorizing the acquisition of real property from the Bayfield School District 10 JTR. Dan seconded. The vote was six in favor, motion carried.

Action Agenda Item # 6: Liquor License: Change of Location for AJ's Pizza:

The Board is being asked to approve a change in location of the liquor license for AJ's Pizza. Shane Mottin, dba AJ's Pizza, is requesting the change of location from its current address of 1248 Hwy 160 B, Bayfield, Colorado to 126 Mill Street, Bayfield, Colorado. (Shane plans to move October 1, 2008)

Justin Talbot moved to approve the change of location for the liquor license contingent upon the building at the new location meeting building and fire codes. Tom seconded. The vote was six in favor. Motion carried.

Action Agenda Item # 6A: Set Hearing Date for Request of a Special Events Permit for the Chamber of Commerce.

The Chamber of Commerce is requesting a hearing date of August 5, 2008 for consideration of a Special Events Permit application. Bob Piccoli made a motion to set the hearing for this item for August 5, 2008 during the regular Board meeting. Dan seconded. The vote was six in favor. Motion carried.

Action Agenda Item # 7: Gem Village Lift Station Engineering Agreement:

Justin said that this project would require that the consultant (Souder Miller Inc.) carry \$1,000,000 liability insurance naming the Town as additional insured. The agreement mirrors those struck with Souder Miller Inc. in the past. For this project, Justin did not include the general scope of work in the packet. He asked the Board if they would prefer to continue the consideration of the agreement until after they have had a chance to review the scope of work.

Bob Piccoli requested that all verbage reflecting 'clients' be changed to 'owner'. He also mentioned that 'owner' should be capitalized in Section 27.3.

Bob asked about payment schedules, as the agreement doesn't reflect any details. 'It doesn't give an amount'.

Bob asked that this item be continued until a future date when the scope of work is included, and the dollar amount is reflected.

Justin T. asked if there was any danger of the price changing. Justin C. replied 'no'.

Bob Piccoli moved to table this item until attachments, cost fees, and all other pertinent documentation is provided. Justin C. is to obtain the necessary paperwork before the next meeting of the Bayfield Town Board. Bob amended his motion to read 'table this item until August 5, 2008. Dan seconded. The vote was six in favor. Motion carried.

Action Agenda Item # 8: Public Hearing, Consideration: Garth Schultheis/ Clover Building LLC- Request to Convert The Current Structure Into Five Business Town Home Lots- 175 Clover Drive, Parcel #567712209004, Section 12, T34 N, R7W:

Joe Crain addressed the council, explaining the situation. The location being discussed is an existing building on Clover Drive. The owner of the building wants to sell Town Home Lots to different owners. The property would need to be converted to a business town house plat in order to do that.

Each separate owner would pay for water meters. The Town's position is that they would have to put separate meters on each space. However, they would not be expected or required to pay new tap fees for each space. All walls would have to be retrofitted for fire wall protection if the plat is going to be recorded as requested. The Fire Department report mentioned compliance with La Plata County's code, but, Joe explained, the Town does not function under County code. It is expected that each space will have it's own meter.

Staff has no problem with recommending approval, as long as it stipulates certain conditions:

- 1) The final plat be revised to include the approvals of the utilities companies that presently serve the property
- 2) The final plat be revised to include the Mayor and the Town Clerks signature blocks
- 3) Each lot created has a separate water meter clustered in a common vault on common property
- 4) Appropriate Declarations be recorded with the final plat
- 5) That prior to the Mayor and the Town Clerks signature, the Building official and the Fire Marshal are satisfied that the structure meets the Building Code and the Fire Code.

Rick asked Garth if they had anything else. Garth's attorney spoke on his behalf. The spaces will all be sold to personal service businesses.

She commented on the stipulations in the Building Code. She *didn't think* Mike Shave *meant* they have to bring it up to code. She *did not think* individual meters would be necessary for each business, saying 'all these people are professionals, the landlord could easily divide the water bill equally. She *doesn't think* this poses any problems.

Debbie asked what size of tap was purchased for this building. Justin said he did not know. Joe stated 'no business should have less than a 1 inch meter'. Justin explained to Garth's attorney that having one meter for several businesses causes multiple problems. If one property owner doesn't pay, the Town cannot lien the property. Water leaks are also a huge potential problem. There is no way to make a determination as to who would be responsible in case of a leak. The Town's requirement for separate meters for separate properties is in place for a good cause.

Tom Au mentioned that LPEA said they would like to set up the easement as a general commons area. This would provide them a blanket easement over all the common space. This is unreasonable. This is also not a good idea.

Garth said they can work on that one. He let the Board know that the original tap was for a ¾ inch tap. He stated 'this is more than adequate to serve them all'.

Joe explained the difference between 'Condominiums' (ownership of the space only) and 'Town homes' (you own the land under the building as well).

The Towns intent is that there will be a separate bill for each separate meter on each Town Home Lot. On sewer taps, a four plex would pay a separate sewer tap for each.

Dan asked 'where does the owners responsibility start, where does the HOA's begin?'

The reply was that outside the boundary line of the property would be the HOA's responsibility.

Dan commented, 'the property is currently zoned industrial. If changed, would it allow residential?' Joe responded 'no'.

The Mayor opened the meeting for a public hearing. David Black said he encourages the Board to require five separate meters, anything else would be nightmare. "As to being a hardship on the developer, that should not even be the Board's responsibility. There should be five tap fees going into the water capital fund for five new businesses'.

Brad Elder stated 'the Town is trying to stimulate business. I do not think the Town should require five new taps or separate meters. If the Town could come up with procedures for HOA's in the future, it would work for the Towns best interest'.

Gabe Candelaria spoke, saying, from a contractors point of view, it is very difficult to have the person who is responsible own up to the costs when costs are to be divided. He is in favor of separate sewer taps. Gabe quipped 'You can take care of it (incipient problems) now, or take care of them in the future'.

Ron Peacock asked if the property is intended to stay 'as is'. He said 'there is a camper parked in the back, wouldn't that be considered 'residential? The camper should not be there!'

Joe said it is not now nor has ever been intended to be residential.

The public hearing portion of the meeting closed.

Garth's attorney quipped 'the HOA can administer this, take care of leaks, and handle any expenses that may occur!' Tom was adamant, their attorney is in error.

Rick interjected, 'it is the Towns position that if property is divided, a separate meter will be placed with each parcel. Because the Town has had so many issues in the past, they do not want to go there again. Therefore, there will be separate meters on each Business Town Home Lot building. It is protection for current tenants as well as future tenants.'

Dan Ford moved to approve the request to convert the proposed property at 175 Clover Drive, Parcel #567712209004, with conditions recommended by the Planning Commission *and*, specifically that each separate property has its own meter, and as specified in Item #5, that prior to signing, both the Fire Inspector and the Building Inspector are satisfied that conditions required by each of them have been met.

Tom seconded. Clarification during discussion, 'they will not be required to pay the tap fees for five separate businesses'.

The vote was six in favor. Motion carried.

Action Agenda Item # 9: Public Hearing – Consideration – Ron Broadhead/ Rebecca Chamberlain Rezoning Request From R-10 to Multi-family, 546 Buck Highway Parcel # 567711400137 Sec. 11, T 34N, R7W:

Joe gave a short summarization of past events concerning this property, and the reason for the request for re-zoning. The Towns Building Official saw construction of what appeared to be a mother in law apartment. Under the current zoning, this was not allowed. There were structural problems in the building itself.

This property does back up to multi-family zoning. Joe is recommending, if approved, the property would be limited to the main unit and a mother in law apartment. The Planning Commission recommends approval of the request contingent upon meeting the following conditions:

- 1) The property will be limited in development to the main residential structure and an apartment on the second floor of the Barn/Garage.
- 2) The landowners are on notice that prior to a CO being issued for the additional residential unit, they will pay required water and sewer tap fees.

The Mayor opened the public hearing for discussion of this item. David Black, Mr. Broadhead's neighbor, said he doesn't have objections, but he did have several questions. His concerns included proper sizing of lines going in for the sewer and what additional water items they would need for a new tap.

He then asked, 'is one tap going to be sufficient for all mother in law apartments going in? Are other residents going to be required to have two taps, before a C.O. for any additional residential unit is issued.? David rephrased his questions. 'Is this requirement for Broadhead setting a precedent for future applicants that want to make a mother in law apartment?' Joe reiterated, 'one unit, one meter. Residential is hugely different than commercial'.

David asked, 'furthermore, when you create a second unit, what are the parking requirements?' Joe replied that Mr. Broadhead had a 33,000 sq. ft. lot; he has plenty of space to provide the parking. He already has six parking spaces'.

Justin C. assured David, all land use issues still apply, set backs, etc., etc.

The public hearing closed.

Consideration: Dan Ford commented, zoning is the issue here, it determines the use. Joe added, the size of the lot in this case sets the determination. Bob moved to approve the Broadhead/ Chamberlain request for re-zoning from R-10 to Multi-family, contingent upon meeting the Planning Commission and staff recommendations. Tom seconded. The vote was six in favor. Motion carried.

A short break was called at 8:50 P. M.

The meeting reconvened at 8:55 P. M.

Action Agenda Item # 10: Public Hearing – Consideration -Northeast Area Plan Map:

This was discussed by the Planning Commission last week. There are twelve land owners involved. They were to do an area plan. They came to the Board with their 'Landowner Master Plan for Inclusion Into the Bayfield Comprehensive Plan (2005).

They are now asking if the Town would accept this and incorporate it into the Bayfield Comprehensive Plan of 2005. There were several study sessions held. Joe Crain explained the initial map that was submitted. All of the land under consideration runs parallel to and connects with Highway 160. It will be commercial and light industrial. The Martinez family has asked to be excluded. They only want their residential unit on their land.

Staff feels the Town has done as much as they can. The Planning Commission voted five to one (the opposition vote said the project would allow for too much density and they were not in favor of allowing industrial there).

All comments received have been included. The Division of Wildlife has not returned their comments.

Staff totally supports what the land owners have come up with. Dan Ford asked if all property owners came to all the meetings.

Justin C. said this plan is a very broad brush stroke approach to this area now. Brad had asked for varied uses.

This will be a precursor for a traffic study to move toward a study for an intersection.

The Comp plan serves as a guideline, outlining suggestions.

Debbi commented 'we are working on new town standards that will be implemented in these new areas.'

Public Hearing: The Mayor opened the meeting for public comment: Brad Elder asked the Board if they had any questions for him.

No questions or comments were given. The public hearing portion closed.

Justin T. asked if twenty acres was sufficient for a park (in the new area).

Justin C. replied 'it is up in the air. Twenty is a loose number. He would opt for a community park rather than a local park.

Dan commented 'the plan is a blue print for the best use of what the Town would like things to be. Nothing is set in stone. It gives the Planning Commission, the Board, and private landowners, direction on what they think is appropriate for the town'. Brad added, 'we do not know the future, this is a framework, not a statement'.

Consideration: Bob moved to ratify the Planning Commissions proposal to adopt the Northeast Area Plan Map as part of the Bayfield Comprehensive Plan of 2005. Dan Ford seconded. The vote was six in favor. Motion carried.

**Action Agenda Item # 11: Sufficiency Determination & Setting Of Public Hearing:
Southviews Determination & Setting Of Public Hearing
Oscar & Nancy Byrd Annexation Petition:**

Last Thursday, the Town received two petitions for annexation.

The first was from Nancy and Oscar Byrd to annex 75 acres, this is for the area directly across from the Shell station. The second is from Real Estate Ventures II, LLC, Southviews parcel, Agent Bradley Elder.

A Master plan was submitted for conceptual thought absorption. The Master plan is for both properties. They envision a spine road, (coming off of Highway 160) connecting with Dove Ranch Road.

The Board needs to make a determination as to whether the properties meet sufficiency (contiguity requirements). If contiguity sufficiency is met, and the Board finds the petition sufficient, Joe Crain is requesting a public hearing and consideration for these

petitions on August 19. Joe will let them know that, in annexations of this size, developers must file an impact report with the County. He has a letter ready to go advising the applicants what they will be required to do by the County. Dirk advised the Board to set both items for public hearing on August 19, with the caveat about supplying the appropriate reports to the County. There are approximately 43 acres on the Byrd plat, 75 acres more or less on the Southviews parcel. Dirk confirmed, the legal descriptions would reflect the meets and bounds. Justin T. made a motion to set the public hearing for the Southviews Annexation Petition for August 19, 2008 if proper reports to the County have been submitted. Tom seconded. The vote was six in favor. Motion carried. Justin T. moved to set a public hearing for the Oscar and Nancy Byrd annexation petition for August 19, 2008 if the proper reports have been submitted to the County. Tom seconded. The vote was six in favor. Motion carried.

Action Agenda Item # 12: July Workshop:

There is a workshop scheduled for July 29 to discuss design standards, development standards, and requirement or recruitment of medical facilities for Bayfield. They also plan to talk about the Homestead Development and perhaps some budget plans. Russ previously suggested some four hour work sessions. Justin thinks a shorter meeting may work. Justin suggested they could start at 5 or 6 p.m. Dan Ford said 'let's start at 5', on the fifth Tuesday of July'. Justin will talk to the caterer, probably Mill Streets Brews and Pies. Dan asked that staff please send e mails to remind them. There will be a packet delivered.

Action Agenda Item # 13: New / Unfinished Business:

Bob Piccoli asked where the Town was on the implementation of road impact fees. Justin has had a discussion with the consultants. They discussed and analyzed cost share, and initially arrived at a residential fee of about \$500.00. They (consulting firm) are booked out far in advance. This item is not on the immediate horizon. Dan Ford mentioned, according to the Chamber newsletter, the water line to the new Chamber of Commerce building is broken. He wondered if the Town could make arrangements for a port-a-potty out there. Water rights were discussed. The Town may be able to draw on a ditch for minimal non potable water. Dan asked what possibility there was for a well at the location and wondered about costs. Mr. Black is concerned about the removal of asbestos shards from his property. He wants the remediation done, and verified by an expert, according to specification. Bob Piccoli said that Environ- Tec can do this. Rick reminded the Board that they need to replace a Planning Commissioner. He quipped 'beat the bushes'. Joe Brown wants the Town to fix the area where *they went through with the water line*. Justin said he thought we had.

**Action Agenda Item # 14: Executive Session- C. R. S. 24-6-402 (4)(C)
Settlement Negotiations:**

Tom moved to go to Executive Session citing C. R. S. 24- 6 – 402 (4)(C) for discussion of negotiations. He asked that Justin C. and Dirk be included. Dan seconded. The vote was six in favor. Motion carried.

The Executive Session ended. The regular meeting re-convened. No formal action was taken.

Motion to adourn.