

**TOWN OF BAYFIELD  
REGULAR BOARD MEETING  
1199 HWY 160 B BAYFIELD, CO  
FEBRUARY 3, 2009  
7 P. M.**

**Town Board Present:** Mayor Rick Smith, Council members Brett Clough, Justin Talbot, Debbi Renfro, Tom Au, and Dan Ford. Bob Piccoli was excused due to illness.

**Staff Present:** Justin Clifton, Town Manager, Pat Anselmo, Clerk, Dirk Nelson, Town Attorney.

**Media:** Carole McWilliams, Pine River Times.

The meeting was called to order by Mayor Smith at 7:03 P. M. Rick mentioned that Councilman Piccoli had sent a written list of concerns and comments to him pertinent to portions of the agenda items. This document was copied and distributed to the other council members.

**Approval of Minutes:** January 20, 2009: Brett Clough moved to approve, as written, the minutes of the regular meeting of Town Board held January 20, 2009. Tom Au seconded. The vote was five in favor. Justin Talbot abstained from the vote as he was not in attendance that evening. Motion carried.

**General Public Input:** David Black spoke regarding the TV Franchise agreement. In his opinion the company is not tending to necessary and on-going maintenance of the poles and lines. There are existing poles that are not used and there are lines hanging down in several places.

He is also concerned about the Town of Bayfield not being able to generate adequate revenue to cover the cost of future growth. He suggested the implementation of a tax to meet anticipated expenditures.

No one else offered comments. The General Public Input portion of the meeting closed.

**Action Agenda Item # 1: Approval of Bills:**

The Board questioned the \$7,383.45 bill payable to Bob's Mobile Truck. Justin C. replied that both he and Ron felt this expenditure was necessary. It was spent to bring the older plow truck into adequate condition. Justin added, 'this certain piece of equipment is still worth fixing'.

Justin T. asked if the patrol car camera expenditure was a grant item. Justin C. responded, 'the \$19,750 will be covered in part by grant money'.

Tom moved to approve payment of bills as presented. Debbi seconded. The vote was six in favor. Justin T. abstained from the vote on the bill due to him. Motion carried.

**Action Agenda Item # 2: Town Updates:**

*Sunrise Estates:* Brett asked about the Sunrise situation and the lien(s) placed by Goff, 'has this been resolved?'

Dirk responded, 'I left a message with the developer.....in rather strong language. This bill needs to be paid. The situation is a legal issue between the homeowners and the developer'. The person from BP that Dirk has been trying to contact had a knee replacement. Dirk affirmed, the Town needs to follow through with due diligence.

*County Budget Requests:* Justin T. asked 'do we have an opportunity to re-submit a request to the County to help with the recycling?' Justin C. replied that it will be one of the issues discussed when they have their joint breakfast get-together (February 12 at the Double Tree).

Justin told the Board they did not need to RSVP to the County for the breakfast. It will be an open forum venue.

*TV Franchise:* Justin C. intended to invite Wayne Vestal (Rocky Mountain Cable TV) to come and present their companies proposed franchise agreement. He has not yet done this.

*Opportunities For Builders Tax Credit Project:* Rick read Bob Piccoli's comments regarding the RHA. Bob wants to be sure that the Town of Bayfield will not be liable if RHA doesn't meet its obligations. Justin C. responded 'the tax credit company has incorporated the help of experts. The Town will need to confirm that they, (Opportunity Builders), first get their approval for funding from CHFA (Colorado Housing Finance Authority). Dirk re-confirmed that 'there will be no liability to the Town at all'. Justin C. added 'there are a lot of very well qualified people involved'.

Tom Au asked how the meeting went with Salazar. Justin replied that 'until they go through all the necessary processes, we won't know for sure if there will be money for the Town'.

**Action Agenda Item #3: Sewer Back Up:** This is the third time this certain homeowner has gone through this.

Justin provided all background documents for the Boards review. He outlined the minutes of the previous meetings during which this particular problem had been discussed. It is not the Town's responsibility to put the valves in on private property. Justin feels that the agreement was fully understood by the property owners at the time they signed it.

The conversations started in February of 2008. The Town issued a check to the Doshers at the same time Mrs. Doshier signed the agreement. Justin C. explained, 'the primary issue now is what to do. The Town ran a camera through the lines and did maintenance on them. It is very difficult to make the determination where the problem started. There are many possibilities'.

George Doshier spoke. He said the first time they had a problem with their sewer line backing up, the problem was fixed immediately by the public works crew. After the backup occurred the second time and the issue came before Town Council, his understanding was that the Town would install a flapper valve to prevent a backup into his residence. He said he tried several times to contact the Town Manager by phone. As a result of the second backup, his yard was covered with solid waste. He said he 'didn't

know what a flapper valve is, what its function is' and that this was never explained to him. He said it (the reason for the backup) was definitely on the Towns side. They want the problem corrected. Rick read Bob's comments, which confirmed 'the policy is sufficient as written' referring to the document that Heidi signed. Rick agrees they definitely need to find a permanent solution. Justin C. cautioned, 'the bottom line is, the Town had installed two valves on private property in times past. Because of my communication with the Towns insurance carrier, we needed a good policy in place. Our insurance company told me 'don't do this work on private property.'

To ensure the problem doesn't continue in the future, the Town should require designated floor elevations during the building permit process.

George said the third time they had the sewer back up, it was caused by chunks of asphalt and gravel in the sewer line.

Debbi asked Doshers if they had insurance. Heidi said 'yes, but we don't want to turn the loss into our insurance company'. They want the Town to fix the problem.

Debbi said the document (that Heidi signed) is very specific 'the homeowner would install the valve' and Mrs. Doshier signed it. Brett commented 'when you bought the house, you bought the service line. The Town is limited as to what we can do to install a back flow preventer. The service line is the homeowner's responsibility. , i.e., the line from the Towns main to their house is their responsibility'. It is also their responsibility to install a back flow preventer.

Tom Au commented, because of the extenuating and unusual circumstances, let the homeowner install the back flow mechanism and the Town will reimburse Doshers for this work. This way the company that installs the back flow and the homeowner both would be ultimately responsibility in case this does not prevent a back flow in the future. Justin C. commented, 'every time the Town pays out, because the sewer is an enterprise fund, the costs are passed on to the customers. We did maintenance on Mountain View last August'. He stressed, 'the Town isn't paying, the residents ultimately are'.

Rick remembers the past times this unique issue has come up. He asked, regarding line maintenance, 'can it be checked more than once a year?' He recommended paying more than \$1,000 to the Doshers.

Justin T. 'can we put something on the laterals to prevent this?'

Justin C. continued, the problem can be incident related, i.e., not a result of a slow build up in the line. It is possible that someone has been dumping illegally. They need to locate a lower elevation to take the sewer to.

Rick questioned 'can we cover the cost of the flapper valve and pay for getting adequate cleanup taken care of?'

Justin T. 'do you want them to come back to us with a damage amount for the Town to cover?' Rick, 'in this particular instance, yes'. Brett Clough quired, 'does the Board want to hire a restoration company, to defer the liability to that company?'

Brett said the Town needs to put a backflow preventer on the main line manhole.

Justin C., 'we need to be sure to prevent liability to the Town, and substantiate costs to prevent insurance fraud. We need to find a spot for the waste to release to.

Debbi, 'do we know what the sewer slope is?' Justin C., 'yes, definitely'.

Rick asked Dirk, 'what is the best way to deal with this, to keep the Towns liability at a minimum?' Dirk responded, 'reimburse them. They need to hire someone to put the

valve in, and provide invoices. Then the Town could decide upon a particular amount with a 'not to exceed' clause.

Justin said restoration companies are basically cleaning companies. They do not get involved in anything other than cleaning.

Rick urged, get the valve in, but Doshers need to make the arrangements to get the plumber to do it. The Town will reimburse them for this. Dan proposed the Board set a maximum pay out of \$5,000. Justin 'does this include the cost of the valve?' Dan replied 'no, that is a separate issue'.

Dan moved to, (due to the unusual circumstances of this case), offer a maximum of \$5,000, for restoration of their home, upon receiving receipts from them. The Town will also pay full expenses for the back flow prevention valve, but would require they get three estimates.

Brett strongly suggests they (Doshers) hire a restoration company to do a complete job. Justin commented, 'we only reimburse, we do not do the work'.

Tom seconded the motion. The vote was six in favor, unanimous. Motion carried.

#### **Action Agenda Item # 4: Water Rates/ Resolution #233**

Justin C. addressed the Board. 'As you are aware, we have done extensive studies on this proposal. The Director of Public Works made a determination as to what amount will be necessary for the maintenance of the system.

They compiled the expected costs for normal maintenance, fixing filters, replacing lines, etc. The Town is currently close to 18% short of covering the future anticipated maintenance work. The rate preferred by the Board was Option 3, (January 6, 2009 agenda). It increased the base rate 15%, with higher users paying more'.

Justin C. added, 'notices were placed in both the Pine River Times and the Durango Herald, we put up fliers around Town. There has been sufficient notice of the proposal to increase rates'.

The Mayor opened the meeting for public comment. David Black commented, 'the notice on the agenda does not specify 'public hearing'. He is concerned about relying solely on (monthly) rates. He believes a mill levy should be instituted.

Sewer taps were increased by the Sanitation District several years back. Water taps have not been increased. Justin C. explained that the monthly rates only provide for current users. The tap fees are used to cover capital costs only.

The water taps are currently at \$4334.00. Buying new water taps pays for new building, new (storage) tanks.

The increase in the cost of water taps is scheduled to be discussed in March during the retreat.

Justin C. asked for a definitive date for increasing the monthly water rates. He then questioned if the Board wants to let the matter ride.

Dirk, said 'technically, the resolution should say the 'Board sought public comment'.

Dan said this (notice of intended increase) has been out for several weeks.

Justin T. moved to approve Resolution # 233, a resolution of the Town of Bayfield, Colorado Amending Water Rates For Users of the Towns Water Utility, with an effective date of March 1, 2009, with rates as set forth in the attached Exhibit A. Debbi seconded.

The Board requested the change in the language as suggested by the Town Attorney:

“...the Board has conducted a public hearing.....” to be changed to read ‘ ...the Board sought public comment on the proposed changes.....’  
The vote was six in favor. Motion carried.

**Action Agenda Item # 5: Scott Fleming Pond Idea:**

Staff feels this is the most favorable storm water detention plan. Justin C. commented, ‘We have done our home work, we can still do the intersection and the landscaping. Scott Fleming spoke. ‘The (conceived) pond is very shallow (referring to the planned pond to be located at the southwest corner of Lot 30 in the business park). The pond would allow us to capture drainage water at the south end.

Brett agreed with Bob’s comments, ‘the detention pond would work, the Town should require that Scott implement provisions for mosquito control. The Town should not be responsible for mosquito control.

Scott explained, ‘this ‘pond’ is technically a detention basin. They are dry. The semantics of using the word pond may have instigated Bob’s concerns about mosquitoes. A retention pond is always full of water’. A detention pond is always dry, (according to Scott).

The outlet is at the bottom of the detention basin. It is constantly controlled.

Dan voiced his concern about maintaining the integrity of the bike path that is located there. He added, the bank may have a financial interest in this matter, so he is recusing himself from the discussion. Debbi commented ‘we do not want to set a precedent on placing a detention pond on a right of way’.

Dirk countered, ‘we are affectively allowing them to use the Right of Way. They need to indemnify the Town against any liability’. Debbi made a motion to agree in concept to the proposal brought in by Mr. Fleming, due to the unusual platting geometry, and to instruct staff to bring back the appropriate documents. Tom seconded. The vote was five in favor, one abstention, Dan Ford. Motion carried.

**Action Agenda Item # 6: Grocery Store Liquor license Renewal:**

Dan Ford moved to approve the request for renewal of a 3.2 beer license at The Grocery Store. Brett Clough seconded. The vote was six in favor. Motion carried.

**Action Agenda Item # 7: Liquor At Senior Center:**

Staff is requesting that the Senior Center be allowed to host events, such as the Chamber After Hours and private wedding parties, to generate revenue by renting the facility with the option of having an open bar. Debbi asked if participants are currently required to make a deposit when they rent the facility, ‘do they put down a damage deposit and sign the agreements to fix any damages?’ Justin T. asked if Justin C. had approached the seniors with this request. Justin C. responded, ‘not specifically. They (staff) just want to make the most of the facility. Dan cautioned, ‘they may incur more damages due to the presence of the drinking crowd’.

Rick summarized, ‘the Board is instructing staff to do due diligence when looking through the contracts’.

**Action Agenda Item # 8: New and Unfinished Business:**

Justin did receive the information regarding the NHA. He handed it out to the Board for their review. He suggested this would be a good item for the March retreat. This data would be utilized to format road impact fees. 'However', he questioned, 'how are we going to pay for the study that would be necessary to move forward on the CDOT bridge transfer?' Justin does not want to move forward on this until 'it is evident how we would cover the costs for the study'. He anticipates a cost of \$15,000 to \$25,000 for such a study. He commented 'there are some private interests involved. They are negotiating as to what the Town should do, and what the developers should come forward with'. Rick asked that staff look at the budget to see where we could possibly squeeze in part of the cost of the traffic study.

He speculated, the economy is flat. However, taking the long view, the money is there. It comes down to 'where they want to place their priorities. The Hwy 160B intersections are very important to the Town, how do we pay for it? The Board should re-review the priorities, reflecting on financing of the whole plan. Perhaps they may consider forming Special Districts, seeking grants, etc. We have not found an answer on how to finance it'. The Board needs to let Justin C. know if they want to reorganize their priorities. Justin said he will ask the private interests to come forward with any creative solutions. There are various ideas on the drawing board, but, he needs somewhat more of a commitment from the private interests.

Debbi relayed that she is still hearing negative comments coming to her about snow plowing. One big one has been 'Why are we plowing outside the curb?' Justin C., it must be done in order for us to provide our crews with a place to shove additional snow. The main objective is to keep the entire road clear. 'We spent \$46,000 to plow. We could not afford to pay to have the snow hauled away'.

Justin T. said he noticed that the lights at the roundabout are out. Justin C. said he would call and find out what can be done.

The Board asked 'Is our street sweeper up and running?' Justin C. replied that it was. However, there is a lot of sand on our roads'.

The Board asked about the progress in selling the old town hall. Justin met with the Heritage group this morning. They did not get their grant in on time so they will not have an answer until October. But, they have been successful in fund raising. 'We may have a tentative contract for the sale as early as the next meeting'.

Brett Clough commented, when they lived in Pueblo, his wife was the director in charge of the YMCA. She is going to contact YMCA to see if they might be anticipating building here. She is gleaning more information on this.

We really need to watch our liability on this sewer back up situation. We need to protect the Town.

**Action Agenda Item # 9: Executive Session: C.R.S. Sec 24-6-402- (4) (e) Gem Village Sanitation Negotiations:**

Tom moved to go into Executive Session, citing Section 24-6-402 (4) (e) Negotiations.

Dan Ford seconded. The vote was six in favor. Motion carried.

The Board moved into Executive Session.

The Regular meeting re-convened.

Motion to Adjourn.

