

**Town of Bayfield  
Regular Town Board Meeting  
June 14, 2010  
1199 US Hwy 160B Bayfield, CO 81122**

**Town Board Members Present:** Rick Smith (Mayor), Tom Au (Mayor Pro-Tem) Justin Talbot, Gabe Candelaria, Dan Ford, Debbi Renfro

**Town Board Members Absent:** Ed Morlan

**Staff Present:** Justin Clifton (Town Manager), Dirk Nelson (Town Attorney), Marianne Jones (Town Clerk), Joe Stewart (Public Works Assistant Director), Chris Choate (Marshal)

**Media Present:** None

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

**Minutes:** Gabe requested one change to the minutes.

Gabe made a motion to approve the minutes from the May 18<sup>th</sup>, 2010 Regular Town Board meeting as amended. Dan seconded the motion. All were in favor, except Tom who abstained.

**General Public Input:** None was offered so it was immediately closed.

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

Gabe made a motion to approve the bills dated June 11<sup>th</sup>, 2010 as submitted. Tom seconded the motion. All were in favor, motion passed unanimously.

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

Chris Choate introduced Dan Cyr, the new deputy for the Marshals Office. He acknowledged Deputy Snow Melody who was voted the Crisis Intervention Team Officer of the Year. Chris also commemorated Deputy Gary Maestas for doing a great job as Marshal during Chris's surgery and time away from the office. Chris stated that he is doing well and hopes to be back to work very shortly.

Gabe asked for an update on the Gem Village Lift Station.

Justin Clifton answered that Crossfire has finished leveling the Lift Station and the total accumulation of costs is approximately \$7,000.00. However, there is another problem with the Lift Station. The Variable Frequency Drive (VFD) drive has gone down again and staff continues to have problems with the vendor, Smith & Lovelace. The Town is requesting brand new motors but receiving those new motors will take some time so there is still an immediate need to get the lift station back online. Problems just continue to crop up with the lift station and the Town is still waiting for the representatives to commit to dealing with them.

Gabe asked about the lack of power to the lift station.

Justin Clifton answered that the transformer is going to be upgraded. The specifications are being engineered by La Plata Electric currently.

Gabe asked if not having the correct power to the lift station could be creating some of these issues.

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Justin Clifton answered that he doesn't think so. If all of the pumps tried to turn on at one time it could potentially trip the breaker but that hasn't happened yet. He doesn't think that would contribute to an outright failure in the lift station.

Justin Talbot asked if the lift station was originally engineered to only use one pump.

Justin Clifton answered that it was only engineered for one pump because the Town's flow is low enough that it should never need more than one pump. However, staff opted to go ahead and upgrade the transformer anyways just to be safe since there are funds available.

Dan asked if the County Road 501 trail is completed.

Justin Clifton answered that there are only one or two things that are outstanding. The final walk through hasn't been done yet but he hopes that it will happen very soon.

Dan asked if the supplemental budget will have to be submitted to the state and if it is a problem to create that document during the middle of the year.

Justin Clifton answered that the reason for the supplemental budget is because there were some major projects that were supposed to be finished by the end of 2009 that did not complete and some other major changes that need to be incorporated into the budget document. He wants to do the supplemental now so that the staff and the Board are looking at real numbers and has a very complete working document.

Debbi asked if the empty lots that need to be sprayed for weeds are privately owned or owned by the Town.

Justin Clifton answered that they are private lots. The Town doesn't spray privately owned lots unless there is an abatement issue that has been through all of the other means available and no resolution has been made.

Debbie also commented that she is not in favor of xeriscaping the round-about on County Road 501. Debbi also asked why fire hydrants are being replaced when they have been flushed and are working.

Justin Clifton answered that fire hydrants have an expected shelf life and the Town is following the maintenance schedule based on that shelf life.

Deputy Chief Randy Larson gave an update to the Board on the Insurance Service Organization (ISO) re-rate that was done on the Town of Bayfield. He stated that the rates in both the Town and the rural surrounding areas were improved substantially. This improvement on the rate will help homeowners in this area save on their home-owners insurance. The fire department also hopes to increase the number received in the rating during the next 90 days. Deputy Larson commended the Town for their role in the re-rate and thanked the Public Works department for all of their work.

Peter Tregillis with SUCAP spoke to the Board regarding their application for funding of the Roadrunner Transit System. Peter thanked the Board for their support in 2010 and stated that the request for funds in 2011 is reduced from the amount requested in 2010. They are requesting \$23,893.00. They are planning to cut back one run per day (the 3<sup>rd</sup> run to Bayfield) which has the weakest ridership but they plan to keep all the others. They have already cut out the run to Forest Lakes because nobody was utilizing the service but they do have healthy ridership in all of the other commuter routes.

Rick stated that he feels that the Town is still getting an increase even though the numbers show a decrease because of the drop in services offered to Bayfield. He told Peter that Roadrunner will need to keep that in mind when they come in for funding during 2011.

Gabe was also concerned about the costs to the Town for the services it is receiving.

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Justin stated that he will work with Peter to get a full report to present to the Board. The report will include information regarding trip costs and costs to the Town.

Dan mentioned that he feels that the Roadrunner is a valuable asset for the Town and wants to see it stay in business but he wants it known that the Town is on an extremely tight budget. The Town will do it's best to support it but the amounts could be substantially lower than what is requested.

**Action Agenda Item #3: Audit Presentation**

Justin gave his staff report. He stated that he has continued frustration with what he perceives as a lack of efficiency and professionalism from Mike Branch, the Town Auditor. Over the last two weeks Justin continually followed up with Dot to see if she had heard from Mike concerning changes to the audit and his commitment to present in time to get the audit to the State by the July deadline. Last week Dot reported to Justin that Mike could not commit to have the work done because his secretary had eye surgery. Justin sent Mike an email voicing his strong displeasure and letting him know that he expects Mike to be accountable and finish his job.

As of late Friday afternoon, the audit still had not been received.

Dan asked if the Town is going to miss the deadline because the audit hasn't been received yet.

Justin answered that it will be presented to the Board for approval at the first meeting in July and mailed off so it will still meet the July 31<sup>st</sup> deadline.

**Action Agenda Item #4: Public Hearing: Ordinance #358 – Temporary Real Estate Offices**

Justin Clifton gave his staff report. He stated that the Town Board considered a request from Dave Gore and Paul Karmazyn in May to amend section 8-23 of the Land Use Code to broaden the use of temporary real estate offices. It was acknowledged that the code as written does not work well with the custom home build method that is prevalent in Bayfield. On site real estate offices help to facilitate the sale of homes, which translates to local contractors getting work and the Town receiving important revenue. However, the Board also cautioned that impacts to residents needs to be strongly considered. The Board gave direction to staff to draft an ordinance that strikes a balance between the needs for temporary real estate offices and the needs of protecting residents.

Justin stated that he and Dirk drafted an ordinance following the outline established for the recently adopted temporary construction facilities policy. Key components of the policy include:

- Continue to allow model homes for use of 12 months
- Restrict other temporary facilities to no more than 6 months
- Allow the Land Use Administrator to consider all aspects of the use and alter terms of the permit according to specific circumstances
- Require facility to be removed after 75% of the lots within that phase are sold
- Allow the Land Use Administrator to require Planning Commission approval

Justin was informed by Justin Talbot that there have been residents of Mesa Meadows that have complained about the zircon trailer in the subdivision. Justin has requested that any residents contact him so that he can track the complaint and possibly require the applicants from Mesa Meadows to go to the Planning Commission. To date, Justin has not personally received any complaints.

Justin stated that the Planning Commission considered the ordinance and approved it by a unanimous vote.

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The item was opened for public comment. None was offered so it was immediately closed.

Justin Talbot clarified that the Board specifically asked the developers of Mesa Meadows to make sure that the zircon area be cleaned up and made more presentable but that hasn't been done yet and it's an eyesore.

Justin Clifton stated that those types of issues could be included in the permitting process so that they are regulated and enforced. Justin said that having this ordinance in place will allow the residents a venue to voice their complaints. The staff will then weigh the item and decide if it's something that can easily be issued a permit or if it would be better to have the Planning Commission make the determination. This ordinance will also give the flexibility to account for every type of situation that might present itself.

Gabe made a motion to approve the Ordinance # 358 amending the Land Use Code by adopting changes to Section 8-23 regarding temporary real estate offices. Tom seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #5: Public Hearing: Ordinance #359 – Business Licenses**

Justin gave his staff report. He stated that the Board gave direction at the last meeting to draft an ordinance incorporating new fees and a penalty provision. Some Board members seemed to want to incorporate a penalty provision that is substantially less strict than the penalties proposed by staff. Other Board members seemed in favor of stricter penalties. The ordinance is drafted with blank spaces but is intended to have a progressive scale. The draft proposes an initial penalty if the license is more than 30 days late. Staff proposes a larger penalty if the license is more than 60 days late. Lastly, to make sure to get someone's attention, the draft allows for the late fee to be increased by a certain percentage every month after 60 days delinquency.

Justin clarified that the Board needs to decide what numbers to use to fill in the blanks. Justin provided a table that demonstrating the fees that would be generated with different numbers. Each table is organized to show the first fee/second fee/ increase to fee. Each table also shows the total increase to the base business license fee for a small business (2 or less employees or \$45), a medium business (6 employees or \$90) and a larger business (15 employees or \$180)

Scenario #1 (aggressive) \$25/\$50/50%

|   |       |       |       |
|---|-------|-------|-------|
| Base Fee                                    | \$45  | \$90  | \$180 |
| 30 days/ add \$25 penalty                   | \$70  | \$115 | \$205 |
| 60 days/ add \$50 penalty                   | \$120 | \$165 | \$255 |
| 90 days/ add \$75 penalty (\$50 plus 50%)   | \$195 | \$240 | \$330 |
| 120 days/ add \$112 penalty (\$75 plus 50%) | \$307 | \$352 | \$442 |

Scenario #2 (moderate) \$15/\$30/25%

|                                    |       |       |       |
|------------------------------------|-------|-------|-------|
| Base Fee                           | \$45  | \$90  | \$180 |
| 30 days/ add \$15 penalty          | \$60  | \$105 | \$195 |
| 60 days/ add \$30 penalty          | \$90  | \$135 | \$225 |
| 90 days/ add \$38 (\$30 plus 25%)  | \$128 | \$173 | \$263 |
| 120 days/ add \$48 (\$38 plus 25%) | \$176 | \$221 | \$301 |

Scenario #3 (relaxed) \$10/\$20/25%

|                                   |       |       |       |
|-----------------------------------|-------|-------|-------|
| Base Fee                          | \$45  | \$90  | \$180 |
| 30 days/ add \$10 penalty         | \$55  | \$100 | \$190 |
| 60 days/ add \$20 penalty         | \$75  | \$120 | \$200 |
| 90 days/ add \$25 (\$20 plus 25%) | \$100 | \$145 | \$225 |

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|                                    |       |       |       |
|------------------------------------|-------|-------|-------|
| 120 days/ add \$31 (\$25 plus 25%) | \$131 | \$176 | \$256 |
|------------------------------------|-------|-------|-------|

Justin explained that the Board could consider making this simpler by applying a flat percentage or flat fee increase every 30 days after delinquency. The flat fee is attractive but it is difficult to strike a balance between small and large business. For instance, a \$10 per month penalty would look like the following for a \$45 base fee: \$45, \$55, \$65, \$75, \$85. The fee almost doubles after an applicant is 120 days delinquent. For the \$180 base fee it would look like: \$180, \$190, \$200, \$210, \$220. This is only a 22% increase after being 120 days late.

Applying a straight percentage fee is more equitable. A 25% monthly increase to the base fee would look like the following for a \$45 base fee: \$45, \$56, \$70, \$88, \$110. For a \$180 base fee it would look like: \$180, \$225, \$281, \$351, \$439. In both cases the fee more than doubles after an applicant is 120 days late. However, in this scenario the \$45 fee progresses similar to the relaxed scenario 3 above. The \$180 fee increase even faster than the aggressive scenario 1.

Justin reiterated that if some of the penalties after 120 days delinquency seem excessive, it needs to be remembered that the staff began giving notice in November. Any business that hasn't paid 120 days after the due date has had 7 months to acquire the license. The goal of having a progressive scale is to keep the burden minimal for businesses that are a little bit late while making it too burdensome to wait 120 days past the due date. In most cases, utility providers, vendors etc. would have simply disconnected service or sent the bill to collections well before 120 days late.

Staff's protocol will be to send out notices in early November, giving almost 90 days notice before the due date. In early January staff will send out reminders and notify business of any penalties that will be imposed after 30 days. By early February businesses have had 2 notices and 4 months to acquire their license and will be given another notice with a penalty. Monthly invoices would be sent along with phone calls after February for every month until 120 days is reached. At that time, the Town would lien the property. Justin stated that he doubts it will ever get to that point.

Dirk stated that he added in the ability to lien a business in the event that they do not pay for their business license. He also included details on what constitutes doing business in Town and added the requirement that business post their licenses in a visible location.

Dan commented that he thinks the lien language should state that the Town is liening the fixed assets of the business. He likes the more modest scenario (#3).

Rick responded that he also likes Scenario #3.

Gabe commented that he thinks it needs to be stricter and would rather go with Scenario #2. He feels that the more aggressive the Town is the quicker people will comply.

Debbi asked what Durango's penalty fee is for delinquent business licenses.

Dirk answered that they double it and then they triple it. Any of the scenarios would be less than Durango's.

Justin Talbot & Debbi both stated that they like Scenario #2.

Tom stated that he likes Scenario #3.

Dan said that he will support a motion on Scenario #2.

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The item was opened for public comment. None was offered so it was immediately closed.

Dan suggested that the wording needs to be changed to read that the penalties are cumulative and will be based on the cumulative amount. He thinks that the wording needs to be changed on the liening of business assets. Dan asked if the chart could be included in the ordinance.

Justin answered that it could be included.

Dirk clarified that the cumulative amount is only calculated on the penalty, not on the total license amount.

Dan made a motion to approve Ordinance #359 amending Article II of Chapter Five of the Town Code regarding occupational licenses. He requested that the chart defined as Scenario #2 be included in the code language. He also requested additional lien clarification be added to the language. Justin Talbot seconded the motion. All were in favor, motion passed unanimously.

**Action Agenda Item #6: Fiber Project IGA**

Justin gave his staff report. He stated that the Board has been discussing for many months about the SB 232 regional fiber grant. This region was very lucky to get a \$3 million in award (the highest percentage of any award compared to funds requested). The SWCCOG and Region 9 have dedicated substantial time to getting the project going, including a request for qualifications for a project manager that will assist all member entities with their projects. The project manager will be responsible for working with each community to refine their respective projects and to assist the COG with conversations regarding coordination of the regional network including long term maintenance/ ownership and leasing opportunities.

Justin presented the required IGA (Intergovernmental Agreement) between the member entities and the SWCCOG. The grant contract is issued to the COG on behalf of its members. The grant contract requires the IGA with member entities.

Justin also presented an invoice \$10,408. This invoice represents Bayfield's proportionate share of the anticipated "soft" costs. There are communities (like Bayfield) that still have questions about exactly how the project will work. The model being used is based on Cortez, which has had significant success attracting vendors to use their "open access network." The details of how each community will manage their open access network cannot be worked out until a qualified project manager is able to thoroughly vet each project. However, the concept being used has been reviewed and endorsed by a well qualified technical team comprised of IT specialists from member entities, the Manweiler Consultant group that drafted a report for the grant application and the State Office of Information Technology.

The SWCCOG has asked all member entities to try and approve the IGA by July. There are numerous groups ready to move forward with their projects. Bayfield is one of the groups that need significant design work before it can move forward. Justin anticipates that the Town will discuss project phasing and cost with the hired project engineer and incorporate those costs in the 2011 budget.

Justin reiterated that he realizes that the \$10,408 in funding is not insignificant and that there will be some Board members concerned about moving forward without full knowledge of the whole project and long term cost/ revenue opportunities. However, he feels that the Town has a very unique funding opportunity where it only covers 25% of the cost. The initial funding is needed to get the detailed information that the Board seeks. In this way it is similar to paying the engineer to get a cost estimate for a project. The \$10,408 represents about 2% of the anticipated project cost and 10% of the total cash match.

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It should also be noted that the Town's contribution is needed to get an adequate cash flow account started. The Town will be contributing to an overall pot of \$93,705. The COG may not need this much to cover the whole scope for the project manager, much less the initial work that the project manager will do. The amount was decided based on the need to cover cash flow as invoices come in while waiting for 75% reimbursement from DOLA.

In addition to helping communities refine their project the project manager will look for ways to combine projects throughout the region in an effort to save costs. This could include coordinated design, materials purchase, construction and long term maintenance. The Town Board will be able to review all aspects of the Bayfield specific project before allocating additional funds for the project.

Justin stated that he has attempted to provide adequate documentation for review. The Mayor also provided a compelling report put together by the New Rules Project explaining the significant benefits of public fiber projects.

Rick stated that the Tribe had leased lines throughout their lands that they didn't own or control. They decided to build their own network internal to the Tribe and put the vendors on the edge and allow them to utilize the service. Building out this infrastructure within the Town will allow the Town to tie all of their facilities (the Water Plant, the Wastewater Plant, Town Hall, the Public Works Building, the Senior Center, etc) together and connect to one another through fiber. It also gives the ability to expand the network for municipal use without a high cost. If the Town expands based on a lease scenario the costs would be significantly higher. He really feels that this fiber project will help the Town & help bring additional economic development by bringing the fiber provider closer to the existing business within Town. Rick also feels that if the local network is already installed it will draw more businesses into Town.

Justin stated that there is a proposal out right now to select that firm that will serve as the project manager. This company will be different from the company that does the actual design work.

Dan asked what kind of businesses will be attracted to Bayfield because of this fiber project. He doesn't really see the need for fiber in his business currently using their T1 line.

Gabe commented that he really sees the benefit to be able to receive extremely large files.

Rick answered that insurance companies' need fiber connectivity.

Justin Talbot asked what size fiber will be installed.

Rick answered that there will be 36 pair in a tube for a total of 72 lines.

Chris Choate commented that when the Town adopted the Spillman program for the Marshals Office there was a major concern that the T1 line would not be sufficient enough to run the program. The Marshals Office has been able to make it work currently but they cannot do any sort of upgrades to the Spillman program until the T1 line is updated to something more substantial.

Gabe asked the expected lifespan of this technology.

Rick answered that it's a 25 year investment.

Joe Stewart asked who will be making the repairs on the fiber lines if they are hit during construction.

Rick answered that the Tribe contracts with WESODI for all repairs on their fiber lines.

Debbi asked who is going to be responsible for the mapping of the lines.

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Rick answered that all of the lines will be mapped through out the project.

Justin commented that the reason for the project manager is to make sure that all of the lines are documented and that the maps are correct.

Debbi asked if there will be incentives for local construction companies.

Justin answered that the COG is working on a procurement policy that allows for a 3% local preference for local contractors.

Dan asked if Rick foresees a new technology that will replace fiber in the near future.

Rick answered that he feels that fiber is way more than a fad and that fiber is at a premium right now. He realizes that it is plausible that something will replace it in the future but there is no determination about when that will be and he doesn't see it happening anytime soon.

Dan commented that he realizes that this is a one time only opportunity but he is still reluctant to spend the funds on the project without having some end result data.

Rick responded that he thinks that payback will come just from the savings the Town receives once the infrastructure is installed.

Justin Talbot asked what the Town will be giving new businesses or customers that they don't already have because fiber already exists in this area. He doesn't feel that the Town should be spending money on duplicating something that already exists.

Justin Clifton answered that the Town will be offering an open access network that will allow for .10 on the dollar of what they are currently paying for services. Also, the project manager will be looking at where fiber lines already exist so that redundancy doesn't occur if it's not required.

Justin Talbot commented that future maintenance on the fiber is going to be extremely expensive and it's totally unknown at this point how much it's going to cost.

Justin Clifton responded that maintenance is his biggest concern. He hopes that the project manager will really help answer some of those questions and clear up some of the big unknown variables.

Justin Talbot asked about the cost of acquiring rights of way for installing the lines.

Rick answered that the fiber lines will be placed in Town rights of way so there will not be a cost to acquire them.

Justin Clifton said that Cortez is having amazing success with this service. They have vendors ready to pay the Town to get on the open access network and start doing business.

Dan made a motion to approve the intergovernmental agreement between Southwest Colorado Council Of Governments and the Town of Bayfield regarding telecommunication infrastructure project-energy and mineral impact assistance program award and appropriate \$10,408.00 in funds. Gabe seconded the motion. All were in favor except Justin Talbot & Tom, who were opposed.

**Action Agenda Item #7: Retreat Agenda**

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Justin gave his staff report. He stated that this item was discussed at the last meeting and came up with some possible dates and subjects for the retreat. It looks like late August is the ideal time to have the retreat. This is based on the fact that there are 5 Tuesday's during the month, which provides for a break between Board meetings. Late August is also a great time to discuss goals/ priorities and funding for the next year as the Board will have started the budget process by then. August 21<sup>st</sup> and 28<sup>th</sup> are the last two Saturdays in the month. August 28<sup>th</sup> is ideal for Justin as there are no meetings the week before or the week after.

The Board began generating some ideas for the agenda at the last meeting. Justin encouraged the Board to continue to consider that capacity related issues (how we do businesses) as well as the project related issues (priorities, goals etc.). Justin suggested keeping the agenda at 8 hours and use the time to cover items that that are either complicated or require significant open ended discussions that aren't as appropriate during regular business meetings. He feels that anything that can be discussed in less than 1 hour should be addressed at a regular board meeting.

Justin asked the Board for direction on what date would work best and finalize the agenda.

Dan said that the Pine River Valley Bank would be willing to host the retreat for the Town Board.

Gabe suggested a 25 year picture of where the Town was 25 years ago and where it could be possibly be in 25 years. He thinks it would be a good opportunity to do some long range planning. Gabe also mentioned that he would like some direction on how to get the public more involved in the Town Board process.

Justin answered that he could possibly get someone in to do a presentation on Board relations; how the Board works with each other, works with staff and works with the public. Justin stated that he will look into that and see if it's a possibility for the retreat.

Rick suggested that the Board email Justin any additional suggestions.

**Action Agenda Item #8: Liquor License Renewal – Back Porch BBQ**

Tom made a motion to approve the liquor license renewal for Back Porch BBQ. Gabe seconded the motion. All were in favor, motion passed unanimously.

**New/Unfinished Business**

Justin Talbot asked if the real estate office in Mesa Meadows (located in the zircon trailer) will be going through the Planning Commission for final approval.

Justin Clifton answered that he would like to hear from the residents on the matter because he hasn't actually received any complaints yet. He asked Justin Talbot to refer anyone directly to him so that he can have a list of complaints on the matter to substantiate the need to take it to the Planning Commission or not.

Justin Clifton mentioned that there will be a meeting on Wednesday June 23<sup>rd</sup> between CDOT and the County Commissioners. The Town Board has been invited to attend. He suggested that it might be a good opportunity for the Board to discuss the possibility of opening CDOT's Environmental Impact Study for the Highway 160B/Highway 160 Intersection.

The meeting was adjourned @ 9:38 p.m.

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*Minutes were approved as amended on July 6<sup>th</sup>, 2010*

**Approved:**

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Rick K. Smith  
Mayor

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Marianne Jones  
Town Clerk