

Town of Bayfield
Town Board Regular Meeting
April 20, 2010
1199 US Highway 160B Bayfield, CO 81122

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

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

Media Present: Carole McWilliams (Pine River Times)

The meeting was called to order @ 7:00 p.m.

Minutes: Tom made a motion to approve the minutes from the March 18th, 2010 Regular Town Board meeting as submitted. Gabe seconded the motion. All were in favor, motion passed unanimously.

Rick thanked Brandon Luter for his 4 months of service on the Town Board. He expressed that Brandon is the youngest Board Member that has ever served on the Town Board.

Rick swore in the 4 newly elected Town Board members. He swore in the 3 incumbents, Tom Au, Gabe Candelaria, & Debbi Renfro and new Board Member Ed Morlan.

Public Input: Jim Finn asked if the public input would be allowed on the medical marijuana dispensaries issue.

Rick explained that public comment would not be taken on the marijuana item because the Town needs to give the applicant due process on that matter. He stated that the Board will create the process during Action Agenda Item #5 that will be used to hear the matter and set the date for that hearing.

There was some frustration expressed from the public regarding the decision not to allow public comment on this item.

Justin clarified that the Town Board functions in two roles. They function in a legislative role where they adopt policies. Their other role is quasi-judicial where they there are two applicants that have submitted an application and the Board has to make a decision on the matter. It is done in a jury type setting and has a controlled setting for the hearing of public comment. This gives the person on trial their due process. He explained that the Town will have a set public hearing on the matter to hear all of the public comment at one time.

Rick suggested that the residents send him an email or a letter stating their position and they will be submitted into evidence at the public hearing.

No additional public comment was offered, that portion of the meeting was closed.

The Board decided to move item #5 on the Action Agenda ahead of Item #1 to accommodate the public in the audience.

Action Agenda Item #5: Medical Marijuana Dispensary Process

Justin gave his staff report. He explained that the Town imposed a moratorium on business licenses for medical marijuana dispensaries in early April. The moratorium is set to expire June 1st. The staff has held and facilitated a series of meetings with stakeholders and general public in order to present the Town Board with information and a summary of the public input received. Justin expressed that he feels that the usefulness of these meetings has been exhausted at this point and stated that he would like to bring this issue back to the Board for consideration.

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Justin noted that the format of these meetings changed slightly the original concept. Originally the plan was to have a stakeholders group that would act like a formal sub-committee. This group would be balanced in terms of people who had a position or were neutral on the issue. The group would undertake the policy vetting process and make a formal recommendation to the Board.

However, once the process began it was discovered that this issue was not appropriate for a sub-committee format. Instead, meetings were held as open public meetings where anyone could provide input. The benefit to this format is everyone was on equal ground to make comments. It also enabled people to come to one meeting and voice an opinion and not come back if they chose.

Justin stated that he would like the Board to consider hearing this issue at the May 4th Town Board meeting. He also suggested giving this item some special attention on the agenda, including dedicating substantial time on the regular agenda or meeting an hour early for a special public input session. He stated that this is an extremely controversial item and has evoked passionate feelings from both sides of the issue. He feels that the perception of an adequate public process will go a long way in establishing credibility for whatever decision is made.

Justin mentioned that he has collected a fair amount of information to be submitted to the Board including:

- A list of critical questions established at the beginning of the process with answers provided over the course of the meetings
- Some factual information about the process of getting medical marijuana and the current regulatory environment
- Pending changes in legislation that may impact this issue
- Summaries and examples of how other communities have dealt with this issue

He asked the Board to give him direction on other documentation that they would like to receive before the meeting.

Dan asked for information on the effect on crime rates for those cities that have agreed to allow the dispensaries.

Justin responded that he will get that information and submit it at the next meeting.

Debbi asked for the email that Elizabeth Jackson, the Town Intern sent out to the residents who attended the medical marijuana input sessions.

Justin answered that any emails/documents that were sent out will be included.

The Board decided to hold the meeting on May 4th, 2010. They also decided to start the meeting at 6:00 p.m. and have an hour of public comment.

Action Agenda Item #1: Approval of Bills

Gabe made a motion to approve the bills dated April 16th, 2010 as submitted. Dan seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #2: Town Updates

Debbi requested that the staff put a tickler in the file for May 2011 so that the Town can put in a bid on the State Land lease (for the property located above Dove Ranch).

Justin responded that he would.

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Dan asked about the negotiations with Smith & Loveless regarding the failed Gem Village lift station.

Justin answered that he is not having the conversations yet regarding the hauling costs. He explained that he wants to get everything up and running first. The motors are installed and operational. The next step is to get revised warranties. One of the motors is not technically considered "refurbished" and Justin wants to make sure that the Town gets their extended warranties in place. Once that is done he plans to move forward and have discussions with upper management and aggressively negotiate getting them to cover the hauling costs that resulted due to the failure.

Gabe asked if it was possible for the Town to get a new pump since the Town paid for a new pump and it failed.

Justin responded that the terms of the warranty state that the pump will be repaired, not replaced in the event of a failure. However, he does plan to negotiate a warranty that is twice as long as the original warranty due to the "refurbished" status of the failed pump.

Action Agenda Item #3: Traffic Study Update

Justin gave his staff report. He stated that a consultant has taken the contemplated land use on the east side of Town and estimated the amount of traffic that could be generated. The original study showed approximately 30,000 trips per day. The consultants reduced the floor/area ratio at maximum build out and that study generates approximately 20,000 trips per day. They then looked at existing traffic at critical intersections, then they looked at back ground traffic (normal population growth) and then they took the traffic generated by the new development at maximum building and gave it direction. This process entails looking at each intersection and determining the level of service of each intersection. The level of service is determined by the amount of time that travelers have to wait when traveling through that intersection. The study shows that there will be a fairly high level of service at each of the intersections; however, it is possible that some modifications might be necessary at the Commerce Drive intersection. Justin expressed that this news was really good and the determination is that the new intersection at the Shell Station will be a standard typical intersection. The Town will use this study to push CDOT (Colorado Department of Transportation) for information on that intersection. Justin hopes that this information will let the Town know what improvements need to be done first on the project.

Justin stated that Scott Fleming (one of the landowners involved in the eastside development project) expressed that he would like for the Town Board to make a public statement about a fair share reimbursement policy for the intersection. Scott feels that the investors needs to have a formal document stating that they will be reimbursed for their investment. Justin expressed that the Town Board should look at adopting a policy at some point in the future.

Action Agenda Item #4: Financial Update

Dot gave her staff report. She gave the 2009 year end results.

General Fund

- Revenues - 3% down or \$46,676 from original budget and 0% up or \$8,379 from the estimated budget
- Expenditures – 7% down or \$131,543 from original budget and 6% down from the estimated budget

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Expenditures were down in part due to a \$40,000 transfer to the Conservation Trust Fund that did not get done in 2009 but has since been done in 2010. If the transfer had been done, expenditures would have been down 5% from the original budget.

Of the total decrease from budget and estimated amounts:

- General Government expenditures were down 9% or \$59,830 from budget and down 5% of \$33,797 from the estimated budget.
- Public Safety expenditures were down 3% or \$17,614 from budgeted and 3% or \$14,684 from the estimated budget.
- Public Works expenditures were down 4% or \$18,170 from budgeted and 5% or \$24,239 from the estimated budget.

The total fund balance for the General Fund is \$847,309 and is 10% up from the estimated budget

Conservation Trust Fund

- Revenues – 4% or \$22,271 less than estimated after factoring in \$40,000 transfer that should have happened in 2009
- Expenditures – 7% or \$39,056 less than the estimated budget.

The total fund balance for the Conservation Trust Fund is \$25,146 which is \$16,785 higher than the estimated budget.

Capital Improvement Fund

- Revenues – 5% or \$56,272 less than the estimated budget
- Expenditures – 4% or \$42,794 less than the estimated budget

The total fund balance for the Capital Improvement Fund is \$ 992,701 which is 1% less than the estimated budget.

Enterprise Funds

Sanitation Fund

- Revenues – Operating revenues were 2% or \$8,346 higher than the estimated budget.
- Expenditures – Operating expenses were 0% or \$1,620 less than the estimated budget.

The Sanitation Operating Fund Balance is \$135,596 which is 1% or \$9,966 higher than the estimated budget.

- Revenues – Capital revenues were 9% or \$426,128 less than the estimated budget.
- Expenditures – Capital expenses were 9% or \$503,207 lower than the estimated budget.

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The Sanitation Capital Fund Balance is \$114,192 which is \$77,079 higher than the estimated budget.

Water Fund

- Revenues – Operating revenues were up 9% or \$41,099 from the estimated budget.
- Expenditures – Operating expenditures were down 3% or \$9,640 from the estimated budget.

The Water Fund Operating Balance is \$368,909 which is up 16% or \$50,739 from the estimated budget.

- Revenues – Capital revenues were 12% or \$40,473 lower than the estimated budget.
- Expenditures – Capital expenses were 16% or \$33,531 lower than the estimated budget.

The Water Fund Capital Balance is \$240,867 which is 3% or \$6,942 lower than the estimated budget.

Garbage Fund

- Revenues – 1% or \$1,178 less than the estimated budget.
- Expenditures - 3% or \$3,361 less than the estimated budget.

The Garbage Fund Balance is \$43,047 which is 5% or \$2,183 higher than the estimated budget.

Dot stated that these numbers are really good news and they reflect great savings in General Government, Public Safety & Public Works. She feels that the department heads did a great job being conservative and saving money where possible.

Rick commended Justin and the Department Heads for doing a good job in the budget process and in managing their funds.

Justin expressed that the year end estimates given by the Department Heads were already very conservative and the fact that they came in lower than estimated is a huge accomplishment for those departments.

Dot stated that the Town has officially closed the first quarter of 2010 and has received 15% of the anticipated general fund revenue. This percentage is expected to improve as the year continues because the larger portion of sales tax revenue is collected later in the year and the Town will be receiving anticipated grant funds. At this point, there have been no unexpected expenses and the Town is in-line with budgeted amounts.

Gabe asked for a revenue comparison for 2010 versus 2009.

Dot responded that she would do that for the Board.

Gabe asked about the terms of the audit and if the Town has some ability to pay at a reduced rate since the audit was not done satisfactorily.

Dot answered that the Town hired the auditor to report on the year's activity and the auditor did provide this information. However, there were items that were missed in the auditing process that need to be addressed in the future. She suggested that the Board will need to make a decision on what they would like to do going forward regarding the audit process.

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Ed asked if the Town's current auditor costs substantially less than another auditor would if the Town hired a new one.

Dot answered that the current auditor's fee is substantially less than average but it could be reflective of the service that is being received.

Justin stated that the staff plans to send out auditing services for bid proposals in August so that the fee can be accounted for during the budget process.

Action Agenda #6: Water Valve On Mesa

Justin gave his staff report. He stated that Last year during the Fire Department's ISO re-rating it was discovered that there is a valve on Mesa that is not working properly. This valve affected the ISO rating as a weak link in the system but more importantly it represents an existing challenge to a fire in the area west of Mesa. The Town could not complete this work when the problem was first discovered as it will entail street excavation and the asphalt plants were already closed.

Justin stated that Staff would like to schedule this work now that the asphalt plants are coming back online and the winter weather has subsided. Staff doesn't know yet how much the project will cost; however, the Town has been banking money in 2009 and 2010 to be able to undertake these types of projects. The Town currently has \$72,000 allocated for asbestos line replacement (the line around the valve is asbestos). This funding came from \$36,000 budgeted and unspent in 2009 and an additional \$36,000 allocated in 2010. Justin believes this amount will be sufficient to complete the project. If not, there are funds allocated to many other line items that are long term investments, not items expected to be expensed this year. There is at least another \$100,000 - \$200,000 available cash to complete any necessary projects.

Justin commented that he has discussed this project with Ron, the Public Works Director and they would like to design the project with an eye toward the future. This means that if the Town is going to excavate the street they would like to replace all the line that is under the road and replace it with larger line. If the line under Highway 160B can be accessed by excavating they would also like to replace this section as well. It's possible that the line under Highway 160B may need to be bored. If that is the case, it will not be included in this phase of improvements.

Justin asked the Board for approval to move ahead with this work.

Gabe asked if the engineering for the project has been started yet.

Justin Clifton answered that it has not been started yet.

Gabe suggested that it would be a good idea to get an estimate from the engineers and make a decision based on that estimate.

Justin Talbot asked how urgent it is to get this project completed.

Justin Clifton responded that it would be best if it was done as soon as possible.

Rick suggested it would be best to move forward with getting the engineering completed and have staff come back with that information for the Board to review. The rest of the Board agreed with this suggestion.

Action Agenda Item #7: Road Improvements

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Justin Clifton gave his staff report. He stated that he has been working with Ron to come up with a strategy for making some needed road improvements. He said that he feels that Board needs to consider a process for addressing road maintenance in Town. The Capital Fund has a significant reserve balance and Justin stated that he can't think of any capital needs greater than some overdue road improvements. There is still significant work that needs to be done in creating a strategy to meet the roughly \$400,000 annual road maintenance need but for now he suggested focusing on critical needs.

Justin showed the Board the Capital Fund Budget. He pointed out that the anticipated 2010 year end balance is \$940,534. He stated that there is not any significant projects anticipated in the next couple of years, but there is also not a lot of new money coming into the Fund. Annual revenue (without further adjustments to the sales tax split between the Capital Fund and General Fund) is about \$380,000. In a year where no other capital project are funded the Town has an annual obligations of about \$350,000 for the Town Hall debt and the fleet replacement fund. This means that the \$940,534 balance is not expected to grow until something changes.

Justin asked for direction from the Board on how to go about getting some projects going. He stated that he doesn't anticipate major resurfacing projects, but would like to move forward with some chip and seal and crack sealing work. He also suggested that it would also be nice to do some patch work in areas where there are significant problems.

Justin mentioned that the Board could give staff some financial parameters so that staff can bring back recommended projects or the Board could help to identify priority projects and staff could come back with estimates.

Justin Talbot suggested coming up with a dollar amount and getting the most work completed for that amount of funds.

Gabe asked Justin Clifton for a suggested dollar amount.

Justin answered that his suggestion would be between \$250,000 and \$300,000.00. He feels that this amount allows for a lot of the major maintenance issues to be resolved.

Gabe asked if Highway 160B maintenance is included in the plan.

Justin Clifton answered that Highway 160B is not included. However, once the funds are imminent for the purchase of that highway, the Town will be able to make a decision on what kind of maintenance should be done to fix the problem areas of that road.

Dan asked when those funds should be received.

Justin answered that it should occur any day. CDOT is currently drafting the contract language and constructing the deeds. He stated that he hopes to have those documents in hand very soon.

Dan suggested that it would be a good idea to take a conservative approach to spending and do a minimal amount of repairs. He suggested that the potholes and major problem areas need to be addressed but he doesn't feel that \$250,000.00 is warranted.

Justin mentioned that it would be a good idea to do some crack seals in as many locations as feasible and possibly do a chip seal on Mountain View Drive. He stated that this sort of maintenance would really help preserve the Town's infrastructure investment.

Dan suggested a \$100,000.00 limit.

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Rick asked for a detail on the amount of work that could be completed for \$100,000.00 and some other possible estimates showing the amount of work that could be completed with additional funds.

Tom asked for total costs on chip seal & crack sealing for each of the streets in Town.

Justin answered that he will get that detail to the Board at the next meeting so that the Board receives a full spectrum of options.

Gabe suggested that the Town might be able to get a larger contractor to come to Town if it was a bigger project than \$100,000.00. He feels that the Town might be able to get more work done for less money if a larger contractor is interested in the project.

Justin Talbot stated that he would like to receive more information on Commerce Drive.

Justin Clifton responded that he will get that information to the Board at the next meeting because that particular road is a high priority. He also stated that he will present a couple of different options as well. He will show how much work can be completed for \$100,000, \$200,000, etc.

Action Agenda Item #8: Engineer Position

Justin gave his staff report. He stated that the staff and the Town Board have discussed the need for an engineer position over the last couple of years. Justin expressed that he has become especially interested in this discussion since Joe Crain retired from his position as Town Planner. The Town adopted Construction Standards, is close to adopting Design Standards and the Town needs to spend more to make sure that the Town inherits quality infrastructure.

Justin stated that he has researched the amount of money spent on engineering services in the past. In 2008, the amount spent was not enough to justify making the jump from contract services to in-house engineering services. However, 2009 and 2010 have been substantially higher. The Town has spent considerable funds on some of the smaller design projects including the Sports Park, Metal Storage Building and Recycling Center. The Town has also spent money on vetting the 160B takeover, creating the road inventory and other issues that a general civil engineer could perform.

Justin mentioned that he sees other opportunities to utilize the service of an engineer. This includes a potential new phase in Dove Ranch, small projects like the water valve replacement and road improvements, completing a road maintenance plan and the Sunrise ditch fix. He also thinks that an engineer could be the single point of contact for most new development activity including building permit review (land use review), development plan review, development construction oversight, fire flow issues and Town capital project oversight. Using an engineer in this way would allow Justin to continue to undertake some of the planning activities and would also allow Marianne to step back from her role in development and focus on her Clerk duties.

Justin asked the Board to give their thoughts on pursuing this position. He thinks the position could be structured in a way to be virtually cost neutral to the Town. The position could be strictly part time (20 hours per week) or could be 32 hours to include benefits. He feels that between what the Town currently spends on engineering services and a couple new sources of revenue such as the recently adopted inspection fee schedule, the position could be funded without any new impact to the budget.

Gabe asked if the Town would have additional liability by having an engineer on-staff. He suggested that Justin Clifton check with the Town's insurance company and find out if it would be more expensive to have an engineer in house.

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Dan stated that he does not feel that it is a good economic time to pursue this item at this time.

Tom said that he is a major proponent of this endeavor but he is unsure that now is the right time to move forward.

Justin Talbot agreed that it was probably not the best time to pursue this activity. However, he stated that he wouldn't mind seeing the numbers but he doesn't want staff to spend a lot of time on it.

Ed asked if it might be possible to do something cooperatively with another small municipality such as Ignacio.

Rick affirmed that he is also nervous about it. He also doesn't want to hurt the opportunity for the Marshals office to get an additional deputy.

It was decided to put this item off presently.

Action Agenda Item #9: New/Unfinished Business

Justin Talbot asked staff to research the zircon trailer that has been moved into the Mesa Meadows Subdivision and is being used as a real estate office.

Justin Clifton said that he will check into it.

Justin Talbot asked the status of the right-of-way issue in the Mesa Meadows subdivision.

Justin Clifton answered that the Town has executed an agreement with the Developer. The agreement states that the fences will be removed and the right-of-way will be dedicated to the Home Owners Association. They also committed to do all of the maintenance in that area. The agreement states that the work will be completed by September of 2010.

Rick stated that the Board needed to elect a Mayor Pro-Tem.

Justin Talbot made a motion to elect Tom Au as Mayor Pro-Tem. Gabe seconded the motion. All were in favor except Tom who abstained from the vote. Motion carried.

Rick requested that Justin Clifton draft a letter to the Southern Ute Tribe regarding their staff coming onto Town property (i.e. the sewer treatment plant) to do testing. He feels that the Town staff has a right to know when they are going to be coming onto the grounds.

Justin Clifton responded that he will write a letter and get the Mayor to sign it.

Justin Talbot asked if any progress has been made with the company moving into the Steamworks building.

Justin Clifton answered that the deal is not completed yet and he doesn't have anything to report yet on the matter.

Action Agenda Item #10: Property Line Discussion

It was determined by the Town Board that an executive session was not necessary for this matter.

Justin gave his staff report. He explained that Jim Flint, representing Jim & Patti Harrmann, recently approached the Town about clearing up a property issue between the Town Hall lot and the lot owned by the Harrmann's

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immediately to the west. There is a parcel of land between the two lots that is essentially "no man's land." The parcel in question is behind the Town Hall fence and has been used as part of the Harrmann parcel for many years.

Justin explained that he approached Dirk about this topic and Dirk explained that extensive time was spent on this issue years ago when Eagle Park and the Trailer Park issues were being resolved. It was the opinion of staff back then that the Town had no claim to the property in question. Extensive record searches and survey work was done that verified that the Town Hall parcel is as it sits today.

Justin explained that the Harrmann's are asking for a letter stating that the Town does not intend to assert a claim on this property. Justin explained that this item has been fully vetted in the past but he wanted to get the Board's opinion on the matter.

The floor was given to Jim Flint, representing Jim & Patti Harrmann.

Jim Flint stated that the title company has requested that the Town write a letter stating that they do not have any right to this platted survey line. The reason for this request is to fix a problem that is occurring due to a deed change that happened in the past.

Dirk stated that he does not think it is a problem for the Town to issue a letter.

Tom made a motion to give a letter to the Harrmann's stating that the Town doesn't have any claim on the property on the west side of the Town Hall fence. Gabe seconded the motion. All were in favor, motion passed unanimously.

Action Agenda Item #11: Sunrise Estates

Tom made a motion to go into executive session for a conference with the Town attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) and he requested that Dirk & Justin Clifton be included in the session. Gabe seconded the motion. All were in favor, motion passed unanimously.

The Board came out of executive session and adjourned.

Minutes were approved as submitted on June 3rd, 2010.

Approved:

Rick K. Smith
Mayor

Marianne Jones
Town Clerk