

TOWN OF BOW MAR, COLORADO
BOARD OF TRUSTEES
MINUTES OF THE REGULAR MEETING
December 14, 2015

CALL The regular meeting of the Board of Trustees of the Town of Bow Mar was called for Monday, December 14, 2015, Mayor Rick Pilgrim presiding. The meeting was held at Columbine Valley Town Hall, No. 2 Middlefield Road, Columbine Valley, CO 80123. A quorum was declared present at 7:02 p.m.

PRESENT	Mayor	Rick Pilgrim
	Trustees	Merle McKittrick
		Gary Guilford - absent
		Carrie McLaughlin
		Anne Justen
		Jane Carlson
		Marsha Dennis
	Attorney	Brian Jumps
	Clerk/Treasurer	Karen Reutzel
	Police Chief	Chief Bret Cottrell
	BMOI Rep.	Chris Murdy

Public Comment - Resident Peter Babin spoke about the plan to hire a Town Administrator. He urged the Board to proceed with some deliberation and to execute an executory contract rather than a definitive contract (an executory contract being one that springs into being when something else happens –that is, when the new Board is elected in April). He said the Board is proposing a fundamental change in the way the Town has previously done business and in his view this is being done in contravention of the Town residents who responded to the survey 6 or 7 months ago. The Board may be more familiar with the details of running Bow Mar than those who responded, but he does not believe the Board has made the case to its residents that this is the way to go. Mr. Babin said the Board is planning a major change and half of the current members may not be running for re-election. He is not sure that this is the legacy the Board wants to leave. Commissioner Marsha Dennis responded that she believed the disfavor for a Town Administrator in the survey results was responding to the GGP plan, not what is being proposed now.

Public Hearing - Public Hearing and Possible Board Action to Adopt the Year 2016 Budget Ordinances: Ordinance No. 304 to Adopt the Budget, Ordinance No. 305 to Levy Property Taxes and Ordinance No. 306 to Appropriate Sums of Money.

Clerk Reutzel introduced Ordinance No. 304, which adopts the 2016 Budget. Finance Commissioner Dennis discussed the changes in the budget since the last meeting, which included county treasurer fees for collecting property taxes, expenses associated with the

Clerk transition, IT support related to the transition and office supplies and equipment for the new Clerk. A motion was made to introduce Ordinance 304 for adoption and the public hearing was opened. (McKittrick/Dennis). There was no public comment and the public hearing was closed. Building Commissioner Jane Carlson commented that estimated building permit fees of \$30,000 is just an estimate because this income cannot be predicted, but the number projected for 2016 is way less than what was received for 2015. Ordinance 304 was unanimously approved on roll call vote, Commissioner Guilford absent.

Carlson	Yes	Justen	Yes
Dennis	Yes	McLaughlin	Yes
Guilford	Absent	McKittrick	Yes

Clerk Reutzler introduced Ordinance No. 305, which adopts the mill levies for the Budget Year 2016. A motion was made to introduce Ordinance 305 for adoption and the public hearing was opened. (Dennis/Carlson). There was no public comment and the public hearing was closed. There were no Trustee comments. Ordinance 305 was unanimously approved on roll call vote, Commissioner Guilford absent.

Carlson	Yes	Justen	Yes
Dennis	Yes	McLaughlin	Yes
Guilford	Absent	McKittrick	Yes

Clerk Reutzler introduced Ordinance No. 306, which appropriates funds for the Budget Year 2016. A motion was made to introduce Ordinance 306 for adoption and the public hearing was opened. (Dennis/McKittrick). There was no public comment and the public hearing was closed. There were no Trustee comments. Ordinance 306 was unanimously approved on roll call vote, Commissioner Guilford absent.

Carlson	Yes	Justen	Yes
Dennis	Yes	McLaughlin	Yes
Guilford	Absent	McKittrick	Yes

First Reading - First Reading of Ordinance No. 307 Amending the Year 2015 Budget. It was explained that non-property tax revenues were higher than anticipated in the form of building permit income, which allowed the Town to expend funds on unanticipated expenses without affecting reserves. Those extra expenses included repairing the Sheridan sign that collapsed, repairing the electricity at both the Belleview and Sheridan traffic circles, and demolition of the pump house on Pinyon. The last item was accelerated into 2015 because of the immediate availability of a willing contractor with the necessary equipment on-site. A motion was made to set Ordinance 307 for Public Hearing at the January meeting. (McLaughlin/Dennis).

Consent Agenda – The Minutes of the Regular Meeting on November 16, 2015 were approved unanimously by motion. (McLaughlin/Carlson/Unanimous). The Treasurer's

Report for November 2015 and payments made in November were approved unanimously by motion. (Dennis/McKittrick/Unanimous).

Commissioner Reports

Public Safety – Police Chief Bret Cottrell gave the report; Commissioner Gary Guilford was absent after surgery. The Chief reported that there were 40 summonses issued in November with 12 in Bow Mar, 4 arrests and 40 Bow Mar calls for service. A burglary noted on the report was mail theft from a locked mailbox, which is now classified as a burglary. A report of criminal mischief was someone trying to get into a locked mailbox. They had more reports on coyotes but these should be tapering off after the police dealt with the sick coyotes as reported last month. Chief Cottrell clarified how animal calls should proceed. The police handle calls unless it concerns a vicious animal and then they call in Sheridan animal control under our IGA with Sheridan. Technically, calls about wild animals (skunks, coyotes, foxes) are properly made to the state Division of Wildlife (DOW) and the police just deal with domestic animal situations. However, the DOW doesn't really have the budget to do anything about wild animals, so the police will step in and handles nuisance coyotes and other wild animals (like sick raccoons). They do draw the line however at skunks, and a pest control company is recommended for them. He reported that body cameras are up and running with all of the officers now.

Finance – Finance Commissioner Marsha Dennis reported that at the end of November, the total revenues were 103% of the year-to-date budgeted amount while expenditures were at 92%. General government expense was at 88% of budget, public safety 91%, parks and rec 108% and public works 92%. Parks and Rec has had additional costs due to the sign at the Sheridan Circle apparently being blown over and electrical issues at both Circles. The total year-to-date operating surplus of \$23,328 and the net non-recurring income (building and road fees less expense) of \$107,584 result in a total year-to-date surplus of \$130,912. The November financial statements were approved unanimously by motion. (McKittrick/Carlson/Unanimous).

Building – Building Commissioner Jane Carlson had no written report because she issued only one small permit for a fence during the prior month. She did, however, give a report about all of the building activity that occurred in 2015, which was very busy. She said 9 projects are still in progress, and at least 7 major projects are anticipated for 2016. Commissioner McKittrick questioned the number of contractor vehicles who are parking on the streets every day, impacting the neighbors, streets, ditches and roads. Commissioner Carlson asks them to park as many as possible on the property. Commissioner McKittrick said that sections of Redwood and Sky Trail have been destroyed because of construction and that road impact fees are insufficient to make the repairs. Commissioner Carlson noted that both of those projects were assessed extra fees because they have been going on so long. It was noted that the project at Bow Mar Drive and Larkspur has been an issue with a dozen cars parked along the road. Commissioner McKittrick also said that contractors should install fencing inside the ditch so that snow removal is not impacted. Commissioner Carlson said she and Building Inspector Terry Weis will address those issues with the contractors.

Parks & Recreation - Parks & Rec. Commissioner Carrie McLaughlin reported the entrance sign is going up on Sheridan today. The electrical work was supposed to start today but there is an issue with power to the electrical box at Sheridan that Xcel needs to repair. Once it is fixed, the holiday lights will be lighted. At the Belleview Circle, the first priority for the electrician is to get lights on the sign and the walls. It was noted that a portion of the Christmas lights are out on Belleview. Pilgrim remarked that the pump house on Pinyon is gone and thanked Commissioners Guilford and McLaughlin for making that happen. They are talking with the same contractor about doing some gravel work on the path through Mary's Meadow.

Public Works – Public Works Commissioner Merle McKittrick reported it was a quiet month with just two road cut permits issued. One road cut for a new sewer line to serve the new home on Bow Mar Drive is sinking and he is working with the company who did the street cut to come in and fix the issue. Further sign repair will wait until 2016.

Intergovernmental – Intergovernmental Commissioner Anne Justen reported that the DRCOG meeting last month was completely unmemorable. She updated the Board on nearby development projects such as Columbine Square, which is now off the list for LIFT and the Clayton Farms project. Mayor Pilgrim said he agreed to serve on the Transportation Advisory Committee (TAC) for DRCOG, filling the environmental portion of that committee.

Clerk Comments – Town Clerk Karen Reutzel reported that the next regular meeting of the Board will be held on January 18, 2016, which is Martin Luther King Jr. Day. She reported that she is working with the Town's insurance broker to bolster coverage for outdoor property after the Sheridan sign incident. She commented that she expected this to be her last meeting as Town Clerk, although a transition period to a new Town Clerk/Administrator was expected during the first quarter of 2016. She thanked the Board for the opportunity to serve as Clerk for the past five years and the Board thanked her for her service.

Attorney Comments - Town Attorney Brian Jumps had no comment.

Mayor's Report – Mayor Pilgrim asked the Trustees to sign thank you letters to former Town Attorney Jack Reutzel, Denver Water for the dust mitigation at Marston Reservoir during their construction project, Barbara Cole and CMI team for the Comprehensive Plan, and to Mr. and Mrs. Ergen, to thank them for deeding the Bridle Path parcels to the Town. Town Attorney Jumps reported that he met with the Ergen's representative to pick up the deeds, which are in the process of being recorded. Mayor Pilgrim said that this was wonderful and thanked the Ergens for their generosity to the Town. He asked the Trustees to approve the purchase of a \$100 gift card to Pinehurst Country Club to thank Mr. Reutzel for his service to the Town, which was approved unanimously. (McLaughlin/Dennis/Unanimous).

BMOI Report – BMOI President Chris Murdy reported there was no BMOI meeting this month. An issue arising is a proposed change to the allocation of expenses by the JW Bowles Company, which would affect the Patrick Bennett Company. This is an ongoing issue and he will provide an update later. Patrick Bennett held their annual meeting – their dam repair/improvement project was very successful and under budget. There are vacancies for Blackouts Director and on the ACC Board. BMOI has met with impacted neighbors regarding the proposed clubhouse and the building will be rotated a little to assist their views and to keep the building and fence out of the right-of-way. They are trying to pro-actively address the affected neighbors' concerns.

Old Business:

Discussion and Possible Board Action Regarding Replacement of Town Clerk/Administrator Position with one of the following options:

1. Contracting with an Individual as an Independent Contractor to perform all Administrator/Clerk duties; or,
2. Potential Outsourcing of Certain Clerk and Administrative Functions Performed by the Town Clerk and Others to the Town of Columbine Valley (to include, for example, issuing building permits during regular business hours, coordination of contractors to perform road-related functions and updating the Town website).

Mayor Pilgrim offered a report on the two options being considered. First, two people in Town submitted resumes and they were interviewed by Mayor Pilgrim, Commissioner Guilford and Clerk Reutzel. If the Board selects the independent contractor option, one of those well-qualified individuals could perform the duties of the position out of her house as an independent contractor similar to Clerk Reutzel. Second, Mayor Pilgrim, Commissioner Carlson and Commissioner Dennis met with Columbine Valley representatives (Mayor Gale Christy, their Town Treasurer, Town Attorney, Town Administrator, and the Finance Trustee). During this second meeting the Bow Mar participants discussed the points of the Columbine Valley proposal to provide administrative services to Bow Mar. The agreement would be multi-year, but the first year would be conditional – at the end of the first year, either party would have the option to exit the agreement. The initial offer for the proposed services was \$115,000. After

discussion of several items, negotiations brought that number down to \$100,000, which was the desired goal for the Town.

Discussion by the Trustees commenced. Commissioner Dennis said that the Columbine Valley proposal would be \$30,000 more than the amounts budgeted for the position as an independent contractor under the current 2016 Budget, but among a number of other features, the Town would be getting an office to do business 8 a.m. to 4:30 p.m., 5 days a week, full-time phone coverage, building permit issuance, and assistance with monitoring public works projects, among other services. Commissioner Carlson said that the way that she has been issuing building permits from her home is not a very professional way to be doing business. Having a place of business would be preferable over using the building commissioner's or someone else's home. Contractors have to adjust to Commissioner Carlson's work schedule. She thinks the outsourcing proposal makes a lot of sense. Two people at Columbine Valley handle all of the building permits and those people would issue them for Bow Mar too. Terry Weiss would remain the building inspector. The proposed staff would also begin to digitalize the new building permits. She said bigger building projects are coming in to the Town, and she could use the additional help. Commissioner McLaughlin confirmed that the building permit fees would come to the Bow Mar account and we would retain that money. It was noted that there would be two separate sets of books for the two Towns and no commingled funds. Commissioner McLaughlin said that she does not think that it is unusual to have a Town Clerk collect building permit fees and for what is proposed to pay a new Clerk it is not unreasonable to expect that person to be available from 8:30 to 5:00 to collect building permit fees. She suggests offering that person a one-year contract while the idea of outsourcing is further explored. Having a resident who knows Bow Mar is useful to explain how the Town runs and the way we operate. Commissioner Justen presented an analysis of building permit data that included three "what-if" scenarios to gauge the potential value that could be received by Bow Mar from the incremental \$30,000 expense of adopting the Columbine Valley option. Commissioner Justen said that in the past 12 months Bow Mar issued 56 building permits, averaging 4.7 building permits per month. Half were small projects (furnaces; gas lines). Under one scenario presented, \$20,000 of the anticipated contract's \$30,000 incremental expense was allocable to building permits. Her analysis indicated that under that scenario, the Town would pay about \$357 per building permit, and smaller building permits would not be profitable. Commissioner Dennis questioned the basis for the analysis points.

Commissioner Justen said she agrees with Commissioner McLaughlin that the transition should be with an independent contractor. Commissioner McKittrick noted the relationship with Columbine Valley has been working well over the last 10 years and additional help to serve Town residents is warranted. For example, he personally spent over 100 hours last year on a drainage incident and that extra help from additional Town staff would have been very welcome. Commissioner Carlson said she only received one phone call about this issue. She thinks that if people are feeling strongly, the Board would be hearing from them. Commissioner Justen doesn't think we have done very much to inform the Town about this proposal. Commissioner McLaughlin thinks that a one-year contract with a qualified person would allow the Board to bridge the gap until

after the April election and that Columbine Valley will always be an option. Commissioner McKittrick said that the expenditure of an additional \$30,000 would allow the Town to add to our government's service to our Town's community -- we could step up our game. He doesn't see this as a big risk, but a small risk with only a one-year commitment. He sees value in the arrangement because the workload for areas like the building department and the 10-year road plan are big projects and the Board could use the help. Commissioner McLaughlin asked if the Town could contract out for road management and it was noted that the Town spent \$20,000 with Bowman Vision Land just to oversee the water line installation along Sheridan last summer. Mayor Pilgrim said that a search was made for companies to perform outsourcing services and they did not locate any who would perform the desired municipal functions. He noted that the Town could bring in a Town resident to be the Clerk, and another person or two to help, but they would likely be considered employees and not independent contractors. He said there were two triggers to considering the outsourcing option: the first was the need to fill the Town Clerk position when notified last August that Ms. Reutzel was tendering her resignation; and, the second was that our Comprehensive Plan consultant CMI alerted the Board that there is a problematic blurring of governmental immunity when we have Trustees working on-site with contractors or Trustees collecting large sums of money out of their home and at the same time setting policy direction for the Town. After 10 years, everything has become much more complicated in our Town as well as the ways municipalities must conduct business in general. In 10 years he's learned quite a bit as Mayor and Trustee. People who are making large investments in a lot and then making large investments in construction expect a more business-like process than currently being provided.

Commissioner Justen asked Town Attorney Jumps about the governmental immunity issue. He said the Board's job is to be a policymaking, voting body and not an administrative body. This Board does both; Board members are currently making policy at the Trustee meetings and then actually doing administrative work to run the Town outside the meeting. Non-discretionary acts (such as those when a Board member is executing Town services) are not always covered under the governmental immunity statute, while discretionary acts are covered. When the Board starts performing ministerial acts it opens the Board, the Town and the Board members up to claims of conflict of interest, willful and wanton acts and negligence. It's a blurred line, but there is not bright line and any situation is factually based. When you step out of the policy-making role, you start to develop a concern. Insurance coverage could also be limited.

Commissioner McKittrick suggested that the Town try the outsourcing plan for a year and then the new Board can evaluate if it is going to work moving forward. Columbine Valley plans to evaluate the costs at the end of the year, and after reconciling expenses they may be able to reduce the contract price, which is what happened with the police contract. Commissioner Carlson said she felt very comfortable that Bow Mar would be treated as a separate entity and she feels very comfortable with their Town Administrator J.D. McCrumb. At the negotiating meeting, he said he gets to know people pretty quickly and would be happy to come to any meeting so that people can get to know him.

Commissioner Justen says this is a radical change and that Commissioner McLaughlin's proposal is much more compatible with the Town. A motion was made to offer the Town Clerk position to the most qualified individual interviewed who resides in Bow Mar and that the functions of that office be expanded to include building permits in addition to the current job description for the Town Clerk. (Justen/McLaughlin). After further discussion on the motion, the motion was denied.

Carlson	No	Justen	Yes
Dennis	No	McLaughlin	Yes
Guilford	Absent	McKittrick	No

A motion was made to approve a Columbine Valley contract for the services discussed in the proposal for \$100,000. (Dennis/McKittrick). The Board commenced discussion on the motion. Commissioner Justen stated that Columbine Valley's cost information and scope of work is not yet firm, and the Board does not know how they are going to perform the services. Commissioner McKittrick said that having the one-year cancellation option will help to settle those issues by experience. Commissioner Dennis noted that the agreement would be based on the two-page letter that outlines the services that will provide and the cost is \$100,000 per year. An Intergovernmental Agreement (IGA) will need to be drafted to flesh out the details. After discussion, Commissioner Dennis amended her motion (McKittrick second) to ask the Town of Columbine Valley to draft an IGA not to exceed \$100,000 per year for a multi-year agreement for the provision of services as outlined in the proposal with an opt-out after one year by either party. Timing issues for consideration of an IGA were discussed. Commissioner McLaughlin said she is willing to look at with the proposed IGA and there is a lot to be looked at to make sure the Town gets its money's worth. It was confirmed that the Board will have to vote to approve the IGA drafted, so this is not a final decision. The motion passed. Mayor Pilgrim will reach out to Columbine Valley Mayor Gale Christy to get the process started with anticipation of a vote at the January meeting.

Carlson	Yes	Justen	No
Dennis	Yes	McLaughlin	Yes
Guilford	Absent	McKittrick	Yes

New Business:

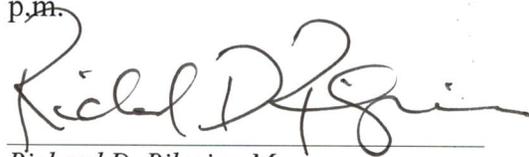
Ratification of Emergency Expenditures to Repair the Entrance Sign at the Sheridan Traffic Circle – A motion was made and unanimously approved to ratify the contract to Michael Lewis for installation of the replacement street sign at the Sheridan Circle in the amount of \$10,910.

Discussion and Possible Board Action to Recognize Retirement of Mail Carrier Ron Hartley. Mayor Pilgrim noted that this item came at the recommendation from one of our citizens. Mr. Hartley has served as Bow Mar's mail carrier for many years and is familiar to many residents. He has retired after shoulder surgery. After discussion, it was discussed that it would be best if residents were encouraged to thank Mr. Hartley for his

numerous years of service individually. The Board declined to do anything formal as a Town.

Mayor Pilgrim noted that he had an invitation to attend the grand opening of the Flatiron Flyer between Denver and Boulder, which he cannot attend and invited a Trustee to attend in his place.

Adjournment - There being no further business the meeting was adjourned at 9:29 p.m. (McKittrick/Dennis/Unanimous). The next Regular Meeting is scheduled for January 18, 2015 at No. 2 Middlefield Road, Columbine Valley, CO. The meeting will begin at 7:00 p.m.



Richard D. Pilgrim, Mayor



Karen V. Reutzel, Town Clerk