

**TOWN OF BOW MAR, COLORADO
BOARD OF TRUSTEES
MINUTES OF THE REGULAR MEETING
MAY 16, 2016**

CALL The regular meeting of the Board of Trustees of the Town of Bow Mar was called for Monday May 16, 2016, Mayor Tom Feldkamp presiding. The meeting was held at Columbine Valley Town Hall, 2 Middlefield Road, Bow Mar, CO 80123. A quorum was declared present at 7:00 p.m.

PRESENT	Mayor	Tom Feldkamp
	Trustees	Steve Fabricant
		Barb Cole
		Carrie McLaughlin
		Anne Justen
		Jane Carlson
		Marsha Dennis
	Attorney	Brian Jumps
	Clerk/Treasurer	Karen Reutzel
	Public	None

Public Comment - None

Public Hearing - Public Hearing and Possible Board Action Regarding Variance Request at 4900 Bow Mar Drive (Cherne) for a 2-foot variance to the current height limit for the home to allow the raising of the grade and establishment of a new benchmark.

Building Commissioner Jane Carlson introduced the matter. The homeowner and the architect were in attendance to explain the request. Their engineer's review indicates the lot has negative drainage because the lot sits below the street. The owner would like to provide for correct drainage in constructing a new home on the lot, and he said the higher benchmark would allow this. The owner had a drainage plan prepared by an engineer, which Commissioner Carlson provided to the Board. Public Safety Commissioner Barb Cole asked if the drainage plan provided accurate surface area calculations as required by the Section 16-17(3) of the Municipal Code, as well as other items indicated in that Section. Commissioner Cole said that the drawing does not meet the requirements of a drainage plan in her experience. The architect responded that it is a grading/drainage plan prepared by a licensed civil engineer. He considers this as a drainage plan – although it is labeled as a grading plan, drainage is referenced in the plan. Once the variance is approved, they will prepare a full drainage plan, which is quite detailed and involved. Commissioner Cole suggested that the variance be approved with conditions - the conditions being the items required under Section 16-17(3) of the Code. Intergovernmental Commissioner Anne Justen asked if there will be a new road cut associated with the home. She

said new road cuts require a super majority approval of the Board. Commissioner Cole clarified that the Public Works Commissioner provides initial approval for a new road cut before the Board is asked to approve it. Commissioner Carlson explained that the road cut will be detailed for this project when the full plans are prepared. It was asked if the revised grading and drainage plan will have a negative effect to adjacent properties. The architect explained that they paid close attention to that issue so that any negative effect will be avoided. Commissioner Cole asked the architect to include impervious surface calculation on the revised plans. She noted that the plans show a separate shed and covered carport – these would be need to included in the impervious surface calculations. It was determined that the size of the proposed new footprint is just at 13%, which is the maximum limit for the lot. Commissioner Carlson suggested the variance request be approved with conditions. Commissioner Cole made a motion that the variance be approved with the following conditions: 1) the owner must provide revised plans meeting the requirements of Section 16-17 of the Municipal Code, particularly subsection 16-17(3), 2 the road cut needs to be approved by the Public Works Commissioner and then the full Board, and 3) in compliance with the Town's water shed protection ordinance, the drainage plan for the home shall be reviewed by the Town Engineer (second McLaughlin). The motion was approved unanimously.

First Reading - Request for Variance at 4995 Larkspur (Page) for a 2.1 foot variance to the current height limit for the home to allow the raising of the grade and establishment of a new benchmark. The new homeowner was in attendance and explained that they plan to construct a new home on the lot. This lot has negative drainage to the existing house. The new owners initially considered an addition but received advice from several engineers that in order to properly fix the drainage it would be better to start over with new construction. The problem area is in the backyard, where there is very little drainage. They need to raise the grade to create positive drainage away from the house. Water will be directed out to Larkspur and then over to Bow Mar Drive through the culvert system. Commissioner Carlson stated that a drainage plan will be required to move forward, and it was noted that the plan must meet all of the requirements of Section 16-17(3), including surface calculations, just as with the prior variance request. The variance request will be set for public hearing in June after posting and publication in the Bulletin.

First Reading - Request for Variance at 5015 King Crest Lane (Vukovich) for a (TBD) foot variance on the north (rear) setback for the construction of a 32" gas fire pit. The owner's son was in attendance; he is assisting his mother with some yard improvements. They didn't realize the fire pit needed a variance as it will be located within the rear setback of the lot. The landscape plan was approved by ACC. There was some uncertainty about the amount of variance that is required. Town Clerk Karen Reutzel noted that the setback requirements are different for Isthmus lots as they are in a separate zone district, and a 30-foot rear setback is required rather than a 40-foot setback. The owner was asked to have their landscaping contractor confirm the property line and calculate the amount of variance required so the request can be properly posted and published for a public hearing at the June Board meeting. (It was subsequently determined that a 9-foot variance is required).

Consent Agenda – The Minutes of the Regular Meeting on April 18, 2016 were approved unanimously by motion. (Dennis/Fabricant/Unanimous). The Treasurer’s Report and payments made in April 2016 were approved unanimously by motion. (Dennis/Carlson/Unanimous).

Commissioner Reports

Public Safety – Public Safety Commissioner Barb Cole and Police Chief Bret Cottrell reported that there were 28 summonses issued in April and 4 arrests. The police have started off-duty staffing at the Beach. Commissioner Cole reported that she met with the Chief to talk about what he does and how the Board could help make his job better. They will continue that discussion and then bring some things to the Board to consider in the future. Commissioner Justen asked about monitoring parking on the streets and how that can be regulated. Commissioner Cole wants to address that issue plus overweight vehicles.

Finance – Finance Commissioner Marsha Dennis reported that at the end of April, the total revenues were at 44% of year-to-date budgeted amount while operating expenditures were at 22%. General government was 41% of budget, public safety 33%, parks and rec 7% and public works 7%. Total year-to-date operating surplus was \$157,662 and the net non-recurring income of \$97,633 results in a total year-to-date surplus of \$255,295. The April financial statements were approved unanimously by motion. (Dennis/Fabricant/Unanimous).

Building – Building Commissioner Jane Carlson reported that just over \$1,500 in building permit fees were collected in April and around \$2,000 paid to the Building Inspector. She provided the Board an update of existing projects and new projects that will be commencing soon.

Parks & Recreation – Parks & Rec. Commissioner Carrie McLaughlin reported that maintenance season has arrived with plenty of weeds and mowing. Once we get through the wet season she will have the sprinklers turned on.

Public Works - Public Works Commissioner Steve Fabricant reported that he is expecting Bowman Consulting’s drainage report within the next two weeks, and he is looking forward to seeing their recommendations. He reported that the Town is in Year 3 of the 9-Year Road Reconstruction Project. He presented a proposal to repair Bow Mar Drive from Yellowstone to Ridge Trail for \$27,000 and to repave the section of Bow Mar Drive from Sheridan to Ridge Trail at a cost of \$97,896. He confirmed that this year they are not sending the paving work out to competitive bid because Metro Pavers has consistently provided the best quality and price over the years. This is also consistent with the recommendation of Commissioner McKittrick before he left office. Town Attorney Brian Jumps confirmed that it is discretionary on the part of the Board to go to bid or not when the Town contracts for services. A motion was made and unanimously approved to expend road tax funds on these projects.

A motion was made and unanimously approved to continue the contract with Bowman for construction management services of the roadwork for the year 2016 in the amount of \$21,000.

(Fabricant/Cole/Unanimous). Commissioner Justen asked for clarification regarding the scope of the services that Bowman would be providing.

Commissioner Fabricant introduced the concept of having a maintenance company under contract for on call services (this item appears later in the Agenda). The repair of the planter box at the end of Bow Mar Drive was also discussed. The planter box was damaged by a hit and run driver the previous month and must be repaired before the repair and repaving of Bow Mar Drive can be started. Commissioner McLaughlin commented that plantings cannot be maintained in that planter box because there is no water or electricity in that area. Alternatives were discussed. Commissioner Fabricant noted that a planter box is the least expensive option and seems to work well. It has been hit many times and every time it is hit it needs to be repaired so a less expensive option is advisable. Commissioner Justen asked why we even need it. It was explained that it is intended to deter drivers (some of them drunk drivers), who are trying to find an exit out of Bow Mar, from driving into the homeowners' driveway at the end of the road. There are also water valves from the water district in the area. Large boulders are not an option because they could cause serious injury to a driver who hits them.

Intergovernmental – Intergovernmental Commissioner Anne Justen reported that she attended the DRCOG meeting in April about CDOT's RoadX program, which will employ advanced technology to make roads safer. She said that this is one of the first steps towards achieving true automated driving. She reported on Bike to Work Day and noted that Denver is second in the nation in participation, second only to San Francisco. There is not much the Town can do to support it other than to encourage our residents to take part in it, as we have no local businesses. She reported on development projects in Littleton and Englewood. Commissioner Justen further addressed the Board about the issue with the trash dumpsters this spring. She said Bow Mar receives six dumpsters each year as part of the contract with Republic Services and she arranged for two to be used by Town residents after the spring blizzard. This took two dumpsters away from BMOI for Beach Cleanup. She researched the history of the agreement and learned that the six dumpsters in the contract were intended for use by BMOI for Beach Cleanup and not for Town cleanup. She was not aware of this and said it was an error to ask for the complimentary dumpsters for Town cleanup. In retrospect, she should have brought two more in at the Town's expense. She said that if the Board decides to provide dumpsters again in the future, it will make other arrangements and will guarantee BMOI six dumpsters in the future. Mayor Feldkamp commended Commissioner Justen for showing initiative in obtaining dumpsters and reacting to the need.

Clerk Comments – Town Clerk Karen Reutzel reported that the next Regular Meeting of the Board will be held on June 20, 2016. The audit process is winding up and hopefully the auditor will have a draft to share for the June meeting. She provided copies of publications that the Board members had requested.

Attorney Comments - Town Attorney Brian Jumps had no report.

Mayor's Report -- Mayor Tom Feldkamp reported that he met with the owners of the home on Sky Trail with ground water drainage issues and their affected neighbor. He gave an overview of various agenda items to be discussed.

BMOI Report -- BMOI President Chris Murdy reported that Beach Cleanup was well attended and much was accomplished before the weather turned. This summer's lifeguards are in place -- most are 18 and over and more are BMOI residents. The Board is encouraging them to get to know the member so they can better control unauthorized use of the Beach. BMOI is analyzing the fact that dues collection is down so far this year. One reason may be a large number of houses for sale and many that are under construction. He reported that Denver Water Board's Marston project last year allowed them to raise the water level one-foot in the reservoir, which will have an affect on the ground water level in areas near the reservoir. This may have an impact on adjacent Bow Mar homes. BMOI is discussing the 15-year requirement for special membership. They are considering wristbands at the Lake for parties. With regard to the Marina project -- the Board is working to understand all costs associated with the project including future operating costs and insurance. Commissioner Cole asked who should be calling the police regarding security issues at the Beach. It was discussed that they are providing off-duty security so they should not be involving Arapahoe County dispatch. This will be discussed among the parties involved so everyone is clear on the process. Commissioner Justen commented that she heard there is a natural spring under the Marston tennis courts. Mr. Murdy commented that there are a lot of water issues that affect the Marston fields and courts. These issues include broken water valves, the slope of parking lots, water being shed by adjacent homes, and the proximity to Marston Reservoir.

Old Business:

Update on the Proposed IGA with the Town of Columbine Valley for the Provision of Certain Clerk and Administrative Functions Currently Performed by the Town Clerk and Others.

Mayor Feldkamp reported that the Town of Columbine Valley Board has decided that they will not move ahead with the IGA for the provision of Town Clerk and other administrative services at this time. They have made a more limited proposal to provide Building Department services to the Town under an amended IGA. Commissioner Justen said that she would have appreciated getting notice of this development as a Trustee officially rather than hearing about it from neighbors. The amended IGA will be discussed later under New Business.

New Business:

The following Agenda items were taken in reverse order to allow for an Executive Session at the end of the evening to discuss the proposed IGA and contract for services.

Discussion and Possible Board Action to Support the South Suburban Foundation's Trails to Ales event on June 25, Saturday from 11-4 -- Commissioner McLaughlin, who is the Chair of the South Suburban Park Foundation (which was started by former Bow Mar Mayor Mary Carter),

informed the Board about its fundraiser on June 25 – a cycling event for all ages that includes stops at various locations (breweries, cycle shops, etc.), followed by an after party and prizes. She asked the Board to consider supporting the event with a donation. She noted that the Town has never really given anything to the Foundation, which provides for the trail system along the Platte River. She asked for a \$100 donation and Commissioner Justen made that motion; Commissioner Fabricant suggested the amount be increased to \$200. The motion was amended to \$200 and approved unanimously. (Justen/Carlson/Unanimous).

Discussion Regarding a Potential Use Tax Ballot Measure on the November Ballot and Required Timelines. Town Clerk Reutzel provided an overview of the election deadlines that would apply if the Board decides to put a use tax measure on the November ballot. The Board discussed the need for a work session so it can better understand how use taxes work and to determine what a ballot measure would look like. Commissioner Cole said a use tax can be limited to building materials only. There was discussion about whether a use tax measure alone is appropriate or whether a sales tax should also be proposed. Town Attorney Jumps said that he and Town Clerk Reutzel would pull information on a use tax for the Board to review.

Discussion and Possible Board Action Regarding the Repair of the Damaged Planter Box Area at the Far Northwest end of Bow Mar Drive – A motion was made and unanimously approved to hire Maintenance Matters to repair and rebuild the damaged planter box at a quoted price of \$2,700 pursuant to the discussion that occurred earlier in the evening. (Fabricant/Dennis/Unanimous).

Update and Discussion Regarding the Proposed Adoption of an Updated Building Code and the Licensing of Contractors Working in Bow Mar – Commissioner Carlson reported that the Town needs to be adopting an updated version of the Building Code. In addition, the IGA with Columbine Valley will require the Town to adopt an ordinance requiring the licensing of contractors working in Town. Building Commissioner Terry Weis, Commissioner Carlson and perhaps others will be looking at these issues in the coming month. The hope is to introduce appropriate ordinances on these issues at the June meeting, with Public Hearings in July. Commissioner Cole noted that the Code needs to be updated before the IGA for Building Services with Columbine Valley can be implemented.

Discussion and Possible Board Action Regarding the Retention of Maintenance Matters/Justin Thyfault to provide On-Call Maintenance Services to the Public Works and Parks and Recreation Departments. – Commissioner Fabricant presented an agreement for on-call services with Maintenance Matters, which is owned by resident Justin Thyfault. The company has worked for BMOI for a number of years and for a number of residents in Town. The contract calls for on-call services at \$45.00 per hour plus materials, larger projects over \$1,000 will require Board approval. Commissioner Carlson said she has worked with Mr. Thyfault for years with BMOI and he is very reliable and Commissioner Cole has had the same experience. Commissioner Justen observed that his rate equates to \$93,000 on an annualized basis. It was pointed out that this is an on-call contract only and there is no intent it be a full-time position. The contract was approved unanimously. (Dennis/Cole/Unanimous).

Prior to discussion on the next two Agenda items, Clerk Reutzel gave a brief overview of the proposed fee agreement with Fairfield and Woods to provide Town Clerk services to the Town. She clarified that she would still be the Town Clerk, but bringing the work into the law firm would allow her to use the firm's administrative staff to help with paperwork and filing. The proposal included a flat fee for service and she said the only real difference would be the payee on the check each month. Commissioner Cole asked why the fee agreement stated that it was for legal and administrative services and who would be the appropriate person to ask legal questions. Clerk Reutzel responded that Town Attorney Jumps is the Town's legal counsel and the person who should answer legal questions. The Town Clerk has to interpret the Town's Code and state law from time to time in performing her duties, particularly in the area of elections.

A motion was made and approved at 9:15 p.m. to go into Executive Session for the purpose of negotiation concerning the next two agenda items (Dennis/Fabricant/Unanimous), and the members of the public in attendance were excused. Clerk Reutzel remained for the discussion of the Building IGA but was excused prior to the discussion regarding her proposal.

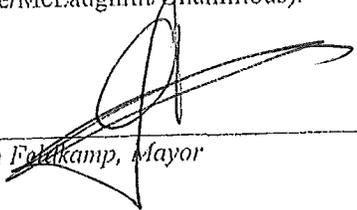
Discussion and Possible Board Action Regarding a Proposed IGA with the Town of Columbine Valley for the Provision of Building Services – Feldkamp/Carlson.

Discussion and Possible Board Action Regarding the Retention of Fairfield and Woods/Karen Reutzel as Town Clerk/Treasurer.

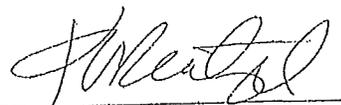
The Executive Session ended and the meeting resumed at 10:15 p.m. A motion was made and seconded to approve the retention of Fairfield and Woods/Karen Reutzel as Town Clerk (Fabricant/Dennis). The motion passed by a vote of 3 to 3, with Mayor Feldkamp casting the tie-breaking vote in favor. (Dennis, Fabricant, Carlson in favor, Cole, Justen, McLaughlin opposed). Commissioner Justen said that the approval of the fee agreement should have been done as an ordinance under C.R.S. 31-4-304. Commissioner Cole stated that it takes four Trustees to remove an officer and asked if it takes four Trustees to appoint a Town Clerk. Discussion ensued regarding whether this is a contract with Fairfield and Woods. Commissioner Justen requested that the record reflect that Attorney Jumps reviewed C.R.S. 31-4-304 and interpreted it to mean that the Town does not need to have an ordinance to compensate a Clerk. Attorney Jumps stated that he reads the statute to say that you do not need to appoint a Clerk by ordinance. Rather, the Board may appoint a Clerk or have an election, however Bow Mar's code does not have an ordinance addressing the election of a Town Clerk. He said the compensation for the Clerk was included in the 2016 Budget, which was passed by ordinance, and this satisfies the statute. Commissioner Justen asked if the budget dictates expenses. Commissioner Dennis explained what was budgeted for administrative services. Commissioner Justen said she is trying to make sure that Town follows the rules and regulations that the Board swore to uphold and following the statutes and ordinances should reduce liability concerns. Commissioner Cole said that it is really disingenuous of the Board to pass this contract without making it available to the public before the meeting. She said packet materials needs to be available to the Board by the

Friday before the meeting and contracts being voted on need to be available to the general public. She would like this listed as an agenda item for June. It was noted that they are an elected Board and contracts that are still under negotiation are not made available to the public and any interested member of the public may come to the meeting to learn the details in advance of the vote if they so choose. Town Attorney Jumps confirmed that the Town Code allows the Mayor to cast a tie-breaking vote and the vote of four Trustees is only required for the recall of an elected or appointed official. (Postscript - Clerk Reutzel wrote a letter to the Board the next day and withdrew her proposal for services and stated that her term would end upon her contract expiration on May 31).

Adjournment There being no further business, the meeting was adjourned at 10:33 p.m. (Cole/McLaughlin/Unanimous).



Tom Falkkamp, Mayor



Karen V. Reutzel, Town Clerk and Treasurer