

**Town of Bayfield
Regular Town Board Meeting
August 6, 2013
1199 Bayfield Parkway, Bayfield CO 81122**

Town Board Members Present: Trustee Au, Trustee Renfro, Trustee Davenport, Trustee Morlan, Trustee Nyberg

Town Board Members Absent: Mayor Smith, Trustee Nelson

Staff Present: Chris La May (Town Manager), Ron Saba (Public Works Director), Dirk Nelson (Attorney)

Media Present: Carol McWilliams (Pine River Times)

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

Roll Call: 5 present 2 absent

Pledge of Allegiance:

Approval of Minutes: Trustee Renfro made a motion to approve the minutes from July 16th, 2013 as presented, Trustee Morlan seconded.

Motion passed (Trustee Nyberg abstained)

Approval of Bills: Trustee Morlan made a motion to approve the bills dated July 17th through August 1st, 2013 including the bills that were sent by email today, Trustee Renfro seconded.

Roll call: 4 – 0 (Trustee Nyberg abstained)

Motion carried.

General Public Input: Mr. David Black (605 Buck Highway) stated that he would like the Town to consider having sewer rates based on water usage. Mr. Black also stated that Ms. Thornton was found guilty and cited for obstruction of a public access in regards to the gate she had installed on the driveway at 90 W. Mill Street. JJ Sanders (718 Mississippi Drive) asked that someone look into the identification markings on the Marshals' parking spaces. He is concerned that you cannot see the markings and citations are being issued to residents parking in these spaces that are supposed to be reserved for Marshal Office employees.

Town Updates: Trustee Morlan asked if the recap of permits was for the past month. Town Manager La May stated that the figures were since January 2013.

Action Agenda Item #1: Discussion And Possible Action – Implementation Of Marijuana Legislation

Town Manager La May stated that the Town of Bayfield has had two Public Forums regarding the possibility of Retail Marijuana sales. The first meeting was on July 11th with approximately 10 people attending, all in opposition of retail marijuana sales in Bayfield. The second meeting was held on July 30th with approximately 25 people in attendance. The majority of the people in attendance at the second meeting were in favor of prohibiting retail sales of marijuana. There was some good discussion at the second meeting regarding how this decision should be made. In general, the people in attendance at these meetings felt that the Board of Trustees should consider how the population voted on Amendment 64. Both precincts in Bayfield did vote in favor of the proposition. A decision has to be reached before October 1st, as to whether the Town of Bayfield is going to allow or prohibit the retail sales of marijuana.

Trustee Morlan asked about the tax that would be collected from the sales.

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Town Manager La May stated that in addition to the normal 2.9% the State will collect 10.00% on all retail sales. Of that additional 10.00% that is collected, 15.00% will be shared with the local community in which the tax is collected.

Trustee Davenport stated that if the Town of Bayfield chooses not to participate then we will not receive any funds.

Trustee Au asked how many additional Marshals will be needed if the Board approves the sale of retail marijuana?

Town Manager La May stated that Marshal McIntyre would like to have continual 24 hour coverage. It was reported in the Denver Post that crime has risen slightly in the vicinity of the Medical Marijuana stores. It is really hard to guess how many if any additional law enforcement officers will be needed.

Trustee Nyberg stated that he had read that applicants would pay a \$5,000.00 application fee to the State and that 50.00% of that fee would be given to the Town.

Town Manager La May stated that the Town would receive 50.00% of the application fee and would also have the opportunity to asses an operating fee at the local level.

Trustee Davenport stated that at the first meeting she understood from Marshal McIntyre that there were new trainings and regulations for all officers that would have to be implemented no matter where the retail stores are located.

Town Manager La May stated that Trustee Davenport was correct. There will be some training to help identify if drivers are impaired by the use of marijuana.

Trustee Renfro stated that she wanted to clarify that the vote that was taken was to make marijuana legal not to sell it in Bayfield. Also, by looking at the map showing the different precincts you cannot definitely say that Bayfield residents voted yes for Amendment 64.

Trustee Morlan asked if you could tell that the Bayfield residents voted no.

Trustee Renfro stated that you cannot tell either way who actually voted for or against Amendment 64.

Trustee Au stated that the question is; do we allow retail marijuana stores in Bayfield, and if we do, then to what extent?

Attorney Nelson stated that there are four different types of facilities; growing, testing, manufacturing and retail. If you allow one type of facility you do not have to allow the others.

Trustee Renfro asked if the Board wants to make this decision without the members that are absent or wait until the next meeting.

Town Manager La May stated that the Mayor had said his opinion was to prohibit all types of marijuana establishments.

Trustee Renfro stated that she would prefer to prohibit all establishments.

Trustee Nyberg stated that he would like to see the Town benefit from the tax revenue and limit the number of establishments.

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Trustee Morlan stated that he would probably vote to support retail marijuana stores.

Trustee Davenport stated that she is on the fence in this matter. These types of establishments do not support our "Americana" image that everyone is striving for but the Town could definitely use the tax revenue.

Trustee Au stated that he is somewhat on the fence as well. The voters of the state have approved the use of retail marijuana but judging by the forums that we have held, people do not want it in Bayfield.

Attorney Nelson stated that the vote tonight was just for direction. Nothing will be binding until the Board approves an ordinance.

Town Manager La May stated that he understands Cortez and Durango are going to put moratoriums in place with the understanding that they are probably going to approve retail establishments at a later date.

Attorney Nelson stated that there are some ordinances that are being adopted across the state and people are sharing them. In the event that the Board votes to allow these establishments there will be several things to consider. How much local control do we want? The process will be similar to liquor licensing so we need to have all of the local regulations in place.

Trustee Au asked about the laws regarding transportation of marijuana from the cultivation sites to the retail stores.

Town Manager La May stated that he would assume that there is some kind of certification involved with the transportation and possibly a process in which the product is tracked.

Trustee Morlan asked how many responses has staff received regarding this matter.

Town Manager La May stated that staff has received approximately 40 responses including those who attended the public meetings.

Trustee Davenport asked what the County is planning on doing.

Town Manager La May stated that the County currently allows the cultivation of Medical Marijuana and would assume that they will allow Retail Marijuana.

Trustee Davenport asked what will happen if the Board does not pass an ordinance either prohibiting or allowing retail marijuana establishments by October 1, 2013.

Town Manager La May stated that if the Town does nothing by October 1, 2013 we are somewhat allowing the State to do the licensing for us.

Trustee Morlan asked if the Town does nothing someone could come in and apply for and receive a license to do business in Bayfield.

Town Manager La May replied yes.

Town Attorney Nelson stated that if the Town lets the State handle the licensing, we should still consider adding language to the Land Use Code to regulate where the businesses could operate.

Trustee Au stated that it sounded like there might be some interest in having retail marijuana establishments in Bayfield.

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Town Manager La May stated that it sounded to him like a majority of the Board would like for staff to start drafting an ordinance designating a local official and looking at other aspects of how this would be managed.

Trustee Davenport stated that she would like to hear Trustee Nelson's and Mayor Smith's arguments on this subject before making a decision.

Trustee Au stated that he would like to hear more from Marshal McIntyre regarding some of the costs his department will incur.

Town Manager La May stated that in Durango in 2012 retail medical marijuana brought in approximately \$150,000.00. There are ten retail establishments in Durango, so approximately \$15,000.00 per store.

Trustee Morlan asked what the tax rate is on Medical Marijuana.

Town Manager La May stated that medical marijuana is taxed at the standard city tax rate.

Trustee Au stated that he would like to see something that reflects income versus expense.

Trustee Davenport agreed.

Trustee Renfro stated that she does not believe retail marijuana establishments reflect the identity of Bayfield and does not feel it will be a beneficial economic decision.

Trustee Davenport asked if the Board votes to prohibit retail sales will there be any administrative costs associated with what the State does.

Town Manager La May stated if it is decided that Bayfield will prohibit sales, the ordinance will be sent to the State and there should be no further administrative costs.

Trustee Morlan made a motion to direct staff to draft two ordinances, one prohibiting retail marijuana establishments in the Town of Bayfield, the other designating a local official to supervise the regulatory process, along with other language concerning the allowance of retail marijuana establishments, Trustee Renfro seconded.

Motion passed unanimously.

Action Agenda Item #2: Liquor License Renewal – Options Restaurant

Town Manager La May stated that staff was asking for the Board's approval on the liquor license renewal application for Options Restaurant. The applicant had a liquor violation for selling to an underage liquor enforcement purchaser and was issued a five day suspension. The renewal application and fees were due in the Clerk's office on June 24th but not received until July 16th. This license will expire on August 8th, 2013.

Trustee Nyberg asked what the reason was for turning the application in late.

Town Manager La May stated that the applicant had forgotten to turn in the application.

Trustee Davenport asked what would happen if the Board chooses not to approve the renewal application.

Town Manager La May stated that the licensee would have to discontinue selling alcohol.

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Attorney Nelson stated that he believed there was a grace period that the applicant had to discontinue selling alcohol but could ask the Board to reconsider a renewal.

Trustee Morlan asked why the applicant was not appearing at the meeting tonight.

Trustee Davenport stated she was concerned that this was submitted so late. Following the rules should be a priority.

Trustee Nyberg stated that the untimeliness of this application is very concerning. We should hold applicants accountable.

Trustee Davenport stated that she did not feel it was unreasonable to have the applicant submit another renewal application and discontinue selling alcohol until the time it is approved.

Attorney Nelson stated that if the Board is inclined not to approve the renewal then no action should be taken. Staff should then notify the licensee to begin the process of asking for a renewal during the grace period.

Town Manager La May stated that he understood the Board's opinions, but he doesn't believe this business will survive without a liquor license.

Trustee Davenport made a motion to approve the renewal application for Options Restaurant, Trustee Morlan seconded.

Motion passed unanimously.

Action Agenda Item #3: Consideration Of Resolution #303, A Resolution Of The Town Of Bayfield Supporting The Grant Application For A Local Government Parks And Recreation Grant From The State Board Of The Great Outdoors Colorado Trust Fund For Acquisition Of Park Land

Town Manager La May stated that Great Outdoors Colorado grant process requires a resolution from the entity seeking the grant.

Trustee Renfro made a motion to approve Resolution #303, Trustee Davenport seconded.

Roll call 5 – 0

Motion passed unanimously.

Action Agenda Item #4: Consideration Of Approval Of Notice Of Award For 2013 Street Maintenance Project

Town Manager La May stated that this project was advertised and a pre-bid meeting was held on July 18, 2013. Two potential contractors attended that meeting and later submitted bids. Bids were opened on July 30th, Matt Leeder Construction's bid was a base of \$189,267.53 with an alternative bid of \$39,466.15, Four Corners bid was a base of \$217,346.48 with an alternative bid of \$45,569.98. It was discovered that Leeder Construction had overlooked mobilization and traffic control in their bid. This error would increase their base price to \$200,427.53. Even with the increase Matt Leeder Construction is the low bid.

Trustee Renfro made a motion to award the contract to Matt Leeder Construction at the original bid plus one half of the error, Trustee Davenport seconded.

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Roll call 5 – 0

Motion passed unanimously.

Action Agenda Item #5: Consideration Of Approval Of Water Change Agreement With Los Pinos Ditch Company

Town Manager La May stated that the Town would like to convert some irrigation water rights in the Los Pinos Ditch to Domestic Water Rights. In order to do this we have to go through an adjudication process. As part of this agreement we will take some of our irrigation rights in the Schroder Ditch and transfer them to the Los Pinos Ditch. Our water plant lies below the Los Pinos Ditch and above the Schroder Ditch. This exchange would allow us to deliver the water through gravity.

Trustee Renfro asked if the total fees were \$25,000.00 payable over four years.

Town Manager La May stated that the \$25,000.00 is a capital improvement fee. We would be agreeing to pay a municipal rate for the water instead of an irrigation rate.

Trustee Renfro made a motion to approve the Water Change Agreement with the Los Pinos Ditch Company, Trustee Nyberg seconded.

Roll call 5 – 0

Motion passed unanimously.

Action Agenda Item #6: Board Reports (SWCCOG, LPCEA, RHA, SWTPR, Region 9)

Town Manager La May stated that the SWCCOG will be asking the local entities for additional funds for 2014. This will mean \$4,000.00 to \$5,000.00 for the Town of Bayfield.

Town Manager La May stated that the Alliance will meet next week.

Town Manager La May stated that RHA will meet tomorrow.

Trustee Renfro stated that SWTPR will meet on the 29th.

Trustee Morlan stated that Region 9 had received a couple of grants to subsidize the Accelerator Program.

Action Agenda Item #7: New And Unfinished Business

Trustee Nyberg asked what the status was on filling the road cuts.

Town Manager La May stated that staff hopes it will be done soon.

Trustee Renfro asked if there was a reason our sewer fees are not dictated by water usage.

Town Manager La May stated that is something we will consider when reviewing the rate study. There is a challenge in that we have sewer customers outside of the town limits that do not have water service.

Trustee Renfro stated that this Saturday is the "Second Saturday" at the library from 6:30 to 9:00.

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Trustee Davenport stated that she thought it might be beneficial for residents to know how much water was saved during the water restrictions.

Trustee Morlan asked if the issue in front of Mr. Teddy Jack's house has been resolved.

Town Manager La May stated that those repairs would be done at the same time as some of the street maintenance.

Meeting adjourned at approximately 9:00 pm.

Minutes Were Approved As Presented On August 20th, 2013.

Approved:

**Rick K. Smith
Mayor**

**Kathleen Cathcart
Town Clerk**