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# Town of **BOW MAR** Colorado

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May 31, 2010

Bow Mar Residents -

As many of you know, the Trustee election held on April 6th was decided by one vote, with John Giese receiving one more vote than Todd Guthrie, Kristin McDonald and Bryan Sperry for the sixth Trustee position. During the recount process, we learned that one voter had voted twice. Shortly before the election, several voters were notified that their original mail-in ballots had not been received, and they were asked to submit a second, "provisional" ballot. With respect to one of these voters, the original mail-in ballot had, in fact, been received, and the town inadvertently counted both ballots in the election results that were reported. Candidates Guthrie, McDonald and Sperry filed a lawsuit challenging the election based on this error.

At a hearing held on Thursday, May 27th, Judge Jack Berryhill concluded that the Town had inadvertently counted both ballots, and that because the election had been decided by one vote, the Town would need to conduct another election. Judge Berryhill made clear that no one had intentionally acted improperly and that the mistake was completely inadvertent, but that because the winning margin was only one vote, he was required to overturn the election under Colorado's municipal election laws.

Because a new election would be costly and would leave the Town without a Board of Trustees for several more months, the candidates agreed to stipulate that, based on the Judge's ruling, the election for the sixth Trustee position was a de facto tie. Under state law, election ties are to be decided by drawing lots, and the Court therefore ordered that the Town draw lots to determine who is elected to the sixth trustee position. The five other positions will be filled as determined in the April 6 election. Mayor Pilgrim is in the process of scheduling this process with the candidates, and we should have a new Board of Trustees by the end of this week.

Although lawsuits are inevitably difficult, this election lawsuit was conducted professionally and cordially by all parties. More importantly, the agreement of John, Todd, Kristin and Brian that the election would be deemed a tie was an extraordinarily generous gesture that saved the Town money and will put this controversy behind us. They are all to be commended for their willingness to consider the Town's interest ahead of their own.

Rick Pilgrim, Mayor

Hugh Gottschalk, Town Attorney