

TOWN OF BERTHOUD  
BOARD OF TRUSTEES  
REGULAR MEETING  
AUGUST 26, 2003  
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The Board of Trustees for the Town of Berthoud met for a regular meeting on Tuesday, August 26, 2003 in the Board Room of Town Hall. Mayor Milan Karspeck called the meeting to order at 7:33 p.m.

MEMBERS PRESENT: Mayor Milan Karspeck  
Mayor Pro-Tem Jenny Foote  
Trustee Don Ashcraft  
Trustee Glen Buckingham  
Trustee David Gregg  
Trustee Michael Patrick  
Trustee Peder Thorstensen

STAFF PRESENT: Town Clerk Mary Cowdin  
Planner Wayne Reed  
Attorney Bruce Fickel  
Deputy Town Clerk Charlene Reed

**PLEDGE OF ALLEGIANCE**

Boy Scout Troop 6 performed a flag ceremony and led the pledge of allegiance.

**CITIZEN PARTICIPATION**

Mayor Karspeck noted there are several people present to discuss water rates. He pointed out that the current drought rates which were put in effect in July 2002, are scheduled to be reviewed during this meeting. The Board will be considering the reduction of those rates effective on the September bills for August usage. He noted the 50% surcharge for residents outside the Town limits is not being considered for change this evening, and prior to changing or reducing that surcharge, the Board would have to look closely at the impact such a change might have. He asked for one person to summarize their concerns and opened the floor for public comment.

Donald Ellis of 2171 Burbank addressed the Board, noting he is President of the Homeowners Association for Berthoud Lake Ranchettes, and their concern is with the water rates. He noted he did a comparison of water rates in Berthoud and the surrounding areas, and based on usage of 50,000 gallons, Berthoud's rates were the highest, with the billed amount at \$397.00. East Larimer County Water District was lowest, with the cost of approximately \$96. He asked the Board how our current rate structure came about, and noted at this time we average 30% higher than other area municipalities. He felt it would be appropriate to meet to discuss the 50% surcharge, but asked the Board to eliminate the surcharge until this can be considered.

Trustee Gregg asked if the cost was calculated comparing the drought rates with the pre-drought rates. Mr. Ellis noted that was not done. He noted, however, that three years ago he used 80,000 gallons, and he is paying the same amount this year and not watering nearly as much.

Trustee Ashcraft asked Mr. Ellis if he compared the differences in the cost of water between the municipalities. Mr. Ellis noted he did not compare the purchase price, only the price to the consumer. He noted he would like to see the basis of the rates for the Town of Berthoud.

Mayor Karspeck noted water rates are higher for users in Berthoud because we must meet our bond compliance guidelines. Bond compliance is based in part on permit sales, and we have sold significantly less than we needed to achieve that goal. Because permit sales are down, it is necessary to increase our user charges to make up the difference. This issue is more complex than it appears.

Trustee Patrick noted water rates have been the subject of 25-30 hours of consideration by the Board. He pointed out there is no value in comparing community to community because we do not have the same

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sources or costs; the cost of water and the cost to process water is different for every Town. It is important that people understand that the goal of the drought rates was to reduce average usage to 16,000 gallons or less. If you are using 50,000 gallons per month, you are using significantly more than the average, and are billed accordingly. He noted that the Town has a limited amount of water, and the purpose of this rate structure was to discourage excessive usage and to encourage people to find other resources for water if they want to put 80,000 gallons on their lawn. The situation in Berthoud has changed significantly since the rates were put into effect. We were fortunate to be able to build and be allowed to use a pipeline to improve our ability to get our water. However, we still encourage our residents to protect our resources, and with that in mind, if you develop a spreadsheet to compare bills at 16,000 or 24,000 gallons, the rate differences are not so significant.

Mr. Ellis agreed, but noted water only comes from one place. He asked how the rates were determined. Mayor Karspeck noted the Board would be happy to provide information regarding what was spent on water this year.

Mr. Ellis noted Berthoud Lake Ranchettes is part of Berthoud, and the high water rates are adversely affecting property values because residents cannot afford to maintain their yards.

Trustee Buckingham noted when the rates were instituted we were in a drought condition. At that time, we were not sure we would have drinking water to last through the winter, and we were not sure that the pipeline was possible. Those rates were initiated as a solution to a real problem. Since that time, we were able to build the pipeline and get approval to use it to transport our water. With that change, we were able to look at alternate rate structures, and those will be discussed this evening. He encouraged the citizens present to stay and offer input.

Rick Thielen of 2261 Breckenridge Drive noted he was concerned when he received a \$461 bill for 55,000 gallons, and the business he works for only paid about twice that for 206,000 gallons. He noted his bill represents a 23% decrease in use compared to last year, with a 186% increase in the cost of the water. He noted Big Thompson sent out a memo in May stating there would be no shortage in water this summer. He suggested the drought rates be removed immediately, and lower rates should be backdated to June.

Mayor Karspeck noted Welch reservoir is our primary source of water, and it is not full. Prior to this year, we did not have a reliable source for water. We built the pipeline to improve our ability to get water, but were unsure whether it would solve our problem until late June. We have to deal with the water we have.

Trustee Ashcraft noted the average family in Berthoud uses 16,000 gallons. The fee structure we are currently using was established to encourage residents to limit the amount of water they put on a lawn. The goal of the rate structure was to encourage conservation. Most residents in Berthoud use under 20,000 gallons, and 51,000 gallon usage is high.

Trustee Patrick noted the Town has a limited water supply, and our goal is to discourage our users from putting excess amounts of water on a lawn. The rates increase as usage increases for that reason. The goal was not to increase rates for residents that use less water. Residents that conserve were not hit with such significant increases. As usage increases beyond the 16,000 gallons, the rates continue to increase. Exceptions were granted for some of our commercial users, because they were unable to reduce the amount of water used. The dairy is an example. With the increase in rates, they would have been out of business. The Town of Berthoud does not have the same water supply as other municipalities. The Board went out on a limb to complete a pipeline that we did not have permission to use. We had to obtain permission from the federal government to allow us to transport our water. There is a significant amount of background information to explain how we got where we are. Over the past six weeks, with the pipeline in operation, the outlook for our water supply has improved, and the Board can now look at reducing the rates. However, even with this change in our supply, the need to regulate and conserve water is here to stay.

Trustee Buckingham noted the Board is trying to establish a monetary relationship between the amount of water dedicated and the rates we charge. Basically, if are charging water dedication for 20,000 gallons a month per lot, and the owner of the lot is using 30,000 gallons per month, that user is using more water than they dedicated. We are trying to find a way to charge more for the water used over and above what is dedicated for a new lot in Berthoud. The Board is trying to be responsible, and at the same time, meet our bond compliance obligations. He encouraged the users to come to the meetings to get a better understanding as these rates are reviewed.

Mayor Karspeck suggested the Board have a study session and invite the President of the Homeowners Association and any interested residents to attend. Trustee Gregg suggested we ask John Gallagher to attend to help explain the rate structure.

Trustee Ashcraft noted it is important that our rates be justified. He agreed to look at changes in the structure, but noted he would not be comfortable making such a decision without a careful review.

Gene Schleiger of 2238 Breckenridge Drive asked what the Town requires for water dedication. Mayor Karspeck noted the Town currently requires one acre foot per lot. Mr. Schleiger suggested the Town increase this amount, since it is less than other Towns in the area. Mayor Karspeck noted this is comparable to other municipalities in the area, with Loveland at one acre, and Longmont at .70 acre.

Trustee Patrick noted the Town is trying to achieve a balance between residents who use the amount of water they dedicate, and those users who use more water than they dedicate. We do not turn off water at a house because they used all the water they dedicated. For those users, there should be a financial impact for the excess usage. There is also variation in water supply every year. There are significant factors that need to be considered.

Pat Chamberlain of 21566 Elmwood noted they looked for ways to conserve water because of the drought. They bought their house two years ago, and invested a lot of money in sod. They limited their usage this winter, using 8,000 gallons of water per month for a family of 5. However, their water usage this summer reflects an investment in their property. Even with the increased water they have used, their yard is not green and it is barely alive. This has created a predicament, it is too expensive to live in their house, but too expensive to sell. It is difficult to come up with a plan to conserve if you do not know how much water you are using. The Town of Berthoud is their source for water, and they do not have any alternate sources. The high rates are having a negative impact on retired couples and residents who have been laid off in the neighborhood. It would be helpful if residents could monitor their usage on an ongoing basis.

Mayor Karspeck noted he is unsure if the Town has the personnel to read meters more than once a month. Ms. Chamberlain asked if the reading devices are expensive. Mayor Karspeck conformed they are expensive, and pointed out that increasing water rates are going to be around for the long term. He noted there are strategies to conserve water, and information is available to the public. It is inevitable that water rates will go up over time, but the Board hopes to make rates more reasonable now.

Ms. Chamberlain noted it would be better if they were not paying the additional 50% that is charged for users outside the Town limits. She asked if it is possible for them to buy additional water. Mayor Karspeck noted that might be something to consider, because it might be cheaper for them to buy water up front.

Trustee Patrick suggested that Berthoud Lake Ranchettes might want to look into a non-potable system. Ms. Chamberlain agreed that would be beneficial, but noted it is cost prohibitive at this time.

### **REPORTS**

There were no reports from the Staff or from the Board.

Mayor Karspeck introduced County Commissioner Glen Gibson, who was present for the meeting.

### CONSENT AGENDA

The consent agenda consisted of 6a., the minutes from the regular meeting on August 12, 2003, and the special meeting on August 19, 2003, and 6b., the financial statement from July 2003..

**Trustee Ashcraft moved to approve the consent agenda as presented. Second by Trustee Patrick. All members voted YES.**

### AWARD BID – PIONEER PARK

Shiloh Hatcher, the Arborist, presented information regarding two (2) proposals for services to provide a final park master plan for Pioneer Park. We received two bids, one from Play Environments, LLC for \$13,141.00 and from Tetra Tech RMC of Longmont for \$16,100. He summarized the scope of services included in the bid, and recommended that the bid be awarded to Play Environments, LLC.

Arborist Hatcher noted the Town had two \$50,000 development charges allocated to this project, and one donation of \$5,000. The Town is committed to provide an additional \$50,000, but that sum was not included in the budget this year. At the present time, there is \$12,500 left of the funds allocated to the Park this year, which would leave a balance due of \$700, which could be taken from Conservation Trust.

Mayor Karspeck asked if we have worked with Play Environments, LLC before. Arborist Hatcher responded that we have worked with them on several parks, and they designed the Skate Park.

Trustee Ashcraft suggested that many aspects of the work included in this proposal could be done in-house. He felt this charge is excessive compared to the scope of services for the project. He pointed out that the first part of this project was done in house, and it is difficult to justify this cost to our residents.

Arborist Hatcher noted we do not have anyone in-house with the ability to do this level of park planning.

Trustee Ashcraft pointed out that we did not go to this extent during the development of the first segment of the park. Mayor Karspeck noted the plan is for more extensive development for this segment of the park. Trustee Ashcraft noted we are faced with lean times, and should find ways to save money. He suggested we look for a contractor to do this on a design build basis.

Trustee Gregg asked what additional features we are contemplating. Arborist Hatcher noted we hope to include restrooms, a gazebo/amphitheater, lighting and electricity on the property.

Trustee Buckingham asked if the engineering plans will address drainage issues. Arborist Hatcher confirmed that this is a part of the plan.

Trustee Gregg asked if we will have funds available for construction once the plan is completed. Arborist Hatcher noted the construction will be done in phases, to allow us to actively pursue funds for the project.

Trustee Buckingham noted if we only have \$12,500 left in the fund earmarked for Pioneer Park, what will we use for the actual construction of the Park. Arborist Hatcher suggested once the planning is complete that we actively pursue grant funds to complete the construction. Town Clerk Cowdin noted this park will also qualify for Conservation Trust funding, and the \$50,000 that was committed by the Town can be included in a future budget cycle.

Arborist Hatcher noted this plan will be valuable as we pursue other sources for funds. He noted he anticipates having tree money available, and if the plan is complete, we can go forward with putting the trees in the park.

Trustee Ashcraft noted the development funds were from Mary's Farm and Fickel Farm, and there was to have been an additional \$50,000 from the Town. He asked if the \$50,000 from the Town was spent. Arborist Hatcher noted the \$50,000 for the Town was not included in the budget this year, but is in reserve and will be available for use when we are ready to go forward with construction in the park.

Trustee Ashcraft thanked Arborist Hatcher for his efforts and he noted he would like to see the park completed. Arborist Hatcher pointed out that the Town has a financial obligation to participate in the completion of the park.

Trustee Gregg asked if the lack of a master plan would have a negative effect on our ability to obtain grant monies. Arborist Hatcher noted a good master plan would be valuable as we apply for grant funding.

Trustee Patrick noted we already spent \$92,000 on this park. He suggested we utilize the talent we have on staff, and then spend funds for the planning that we do not have the ability to do in house. He noted this park is still going to require significant funds over and above the \$50,000 from the Town and the \$12,500 presently available. We need to achieve a balance between what we can do ourselves and what we need to bring in consultants to accomplish.

Mayor Karspeck pointed out that the cost to master plan is a small piece of the overall cost of the park, and can be the impetus to get this project moving forward again. He spoke in favor of awarding the bid. Arborist Hatcher noted the master plan also has the Parks and Open Space Board recommendation.

Mayor Pro-Tem Foote agreed this might help us to move forward with the park, and she supported Arborist Hatcher's recommendation. She noted this should be a valuable tool when we begin to apply for grants.

Trustee Buckingham supported going forward with the planning, noting that even if we save half the amount by using in-house expertise, we would lose money in delays and lost opportunities.

Trustee Ashcraft asked if a master plan is critical to our likelihood of getting grants. Arborist Hatcher agreed, and noted there are several significant portions of this plan that we are unable to do in-house, for example irrigation planning. He noted he has been able to get several grants for trees over the past three years, and our likelihood for getting help to complete this park is tremendous.

**Mayor Pro-Tem Foote moved to award the contract for Pioneer Park Master Planning to Play Environments, LLC for an amount not to exceed \$13,141.00. Second by Trustee Buckingham. Mayor Karspeck, Mayor Pro-Tem Foote, and Trustees Patrick, Buckingham, Thorstensen and Gregg voted YES. Trustee Ashcraft voted NO.**

#### **PROPOSED ORDINANCE REGARDING WATER RATES**

Mayor Karspeck summarized the optional rate structures developed by John Gallagher, our rate consultant from Black and Veatch. He noted the Board requested a simpler rate structure than those initially proposed, and that request resulted in alternatives C and D.

Mayor Karspeck noted after seeing August's bills, the Board is looking for something to help with rates for the September bills which reflect August usage. He noted alternative D would result in lower rates, but would not allow much cushion for the Town in meeting our bond requirements. He pointed out that this alternative is based on the sale of 25 water taps, and we do not anticipate reaching that amount this year.

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At the present time, we are hoping to sell 20 taps, and if you remove the cost of 5 taps from the cushion, that only leaves a cushion of \$32,000.

Trustee Buckingham suggested lower rates will result in higher consumption. Mayor Karspeck noted that is a possibility, but changes in our weather could also reduce the amount of water used.

Trustee Thorstensen asked if these projections included the funds from the rate stabilization fund, and Mayor Karspeck confirmed those funds were included.

Mayor Karspeck noted he would like the Board to reach an agreement that would allow an immediate change. He suggested that the Board go with alternative D for the September bills, and then adopt alternative C beginning with the October bills and going forward.

Trustee Gregg suggested the Board go ahead and put alternative D in place, and then monitor our progress. If it looks like we are not meeting our bond obligations, then we can look at further increases.

Mayor Karspeck noted we are close to year end, and he would prefer that we not wind up with a surcharge.

Trustee Patrick agreed, noting it is late in the year to get so close to the amount we have to have for bond compliance. He pointed out that last year we had developers willing to pre-pay taps, and this year we will not have that source of funds available. Our only source of funds this year is from our users. We only have three months to increase our revenues if necessary, and it would be better to allow our residents to budget the higher rates over the three month period, than to run the risk of a large surcharge in December.

Mayor Pro-Tem Foote spoke in favor of the suggestion that we go with alternative D for the September bills, and then go with C until year end.

Town Clerk Cowdin noted while we have billed \$161,000 in August our collections as of the end of work today were \$63,000. We still have approximately \$100,000 outstanding for the month. Many of our residents were unable to pay the August bill in full.

Trustee Patrick noted we only have three months left for collections to be applied in 2003. For funds billed in December, only those collected by December 31, 2003 will be used to calculate compliance for 2003. He suggested a variation that would use the rates from option D, the \$2.26 for units 1-24, and then use the rate from option C, \$5.36 for units in excess of 24 units. This would result in a lower rate for those users that have conserved water through this difficult time. He noted he understood that the study that was done indicates only 9% of our users go over 24,000.

Mayor Karspeck noted we need the higher rate of \$2.68 for October through December to meet our bond requirements.

Trustee Buckingham noted he could support either alternative, the plan recommended by Trustee Patrick, or alternative D. He noted there is still the possibility usage will increase when the rates are lowered.

Trustee Ashcraft noted we have experienced a decrease in usage due to the increase in rates. He noted we should see an increase in usage once the rates are reduced.

Trustee Gregg suggested the Board try to be more conservative in the excess revenue over what we need to meet our bonding obligations, noting an overage of \$150,000 reflects an excess charge of \$75 per household. He noted he would be in favor of the Mayor's recommendation since it would bring about a slight decrease in the cushion.

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Mayor Karspeck noted that any change to the 50% surcharge for residents outside the Town limits would also affect the rates and our ability to meet our bond obligations.

Trustee Ashcraft noted the Town is not in the business of making money. We are attempting to establish a rate structure that meets our bond obligations and allows us to meet our financial obligations.

Mayor Pro-Tem Foote suggested the Board adopt alternative D and then modify the rates if necessary.

Attorney Fickel noted the advantage of adopting C for next month is to give our users a break in the higher rates. They would then know what the rates will be beginning in October, and they can plan accordingly.

Trustee Patrick noted it is important to set a predictable rate that will not be affected by the weather. Once the Board makes a decision, users will know what they are going to pay until the end of the year.

Trustee Buckingham noted again that there should be an increase in water usage once the rates are reduced. He suggested with the increase in usage, it might not be necessary to have the second increase the rates.

Mayor Karspeck noted our goal is to give users a break on the cost of water for last month, and then set a rate that will meet our obligations for the bills beginning in October.

Trustee Patrick noted people adjust usage based on the rates in effect. If we discount the rates for the water used in August, the people that conserved will not see any benefit. We will be giving the break to the people that used excess water in August. He noted it is reasonable to reduce rates, but it would be better to reduce rates at the end of the year, rather than be forced to adopt a surcharge at the end of the year. He spoke in favor of alternative D for the September billing, and alternative C for the remainder of the year.

Mayor Karspeck opened the public hearing to discuss water rate adjustments. He summarized the proposed rate structure for the September bills, noting this will be adopted with an emergency clause and go into effect immediately. He opened the floor for public comments.

Dan Schleiger of 2048 Elmwood noted under the current rate structure, usage of 24,000 gallons would generate an approximate bill of \$95.00. Under the proposed new rate structure, the cost for the water would be \$79.36. This is a significant reduction in cost for 24,000 gallons of water. He suggested with fall coming, and cooler days, lawns will require less water. It is feasible for the majority of the users to reduce their use to the 24,000 gallon range.

Mr. Ellis addressed the Board, noting that 24,000 gallons is not adequate for their lots. He asked the Board to consider a reduction in their surcharge, noting they are looking for a compromise in the higher rates for residents outside the city limits.

Mayor Karspeck noted a rate study would have to be done before any change in the surcharge is made. Trustee Buckingham agreed, and noted it is anticipated that the amount of water you dedicate is the amount of water you can use. He suggested it might be appropriate to allow residents with larger lots to dedicate more than one acre foot. When the Town manages water, the goal is for each user to be able to use the water they dedicated. The goal is not to give water dedicated by one user to someone else.

Mayor Karspeck agreed it might be good to have more realistic dedication requirements for larger lots, but it is still necessary to price the water to meet the Town's obligations.

Trustee Patrick pointed out that the current cost for raw water dedication is approximately \$20,000 per lot. The cost to increase that dedication would directly affect the cost of a home, if you increased the amount of water dedication according to how much water is needed for the larger lot. He pointed out that early in the spring, before we knew what kind of water we would be able to get, water was selling for \$400 per acre

foot to rent for the summer, instead of the normal rate of \$50 per acre foot. The Town was forced to pay higher rates for water to be sure we had enough to get us through the summer. This has been the topic of many study sessions over the past year.

Trustee Ashcraft noted one possible solution would be for the residents of Berthoud Lake Ranchettes to rent water from Little Thompson.

Royce Morrison of 2165 Burbank noted the change in rates is a step in the right direction. He noted they are currently paying an additional 50% for their water because they are not a part of the Town. If they were annexed into the Town tomorrow, they would pay the same rate as everyone else.

Mayor Karspeck closed the public comment portion and returned the item to the Board.

**Mayor Pro-Tem Foote moved to adopt Ordinance 969, adopting alternative D with an emergency clause to be effective with the September 2003 billing cycle. Second by Trustee Gregg. All members voted YES.**

Mayor Karspeck opened the public hearing to consider an ordinance adopting alternative C beginning with the October 2003 billing. He explained the proposed rate structure under option C and noted this would also be approved with an emergency clause. He opened the floor for public comment.

Ms. Chamberlain asked why we are changing the rate structure from September to October. Mayor Karspeck noted the change in rates for September is to give the users a break from the higher rates this summer. However, the increase in October is necessary to allow the Town to meet our bond obligations. She asked if the Board collects more money than necessary, will the Town give a refund. Mayor Karspeck noted that cannot be done realistically. However, excess funds can be put in a rate stabilization fund to help offset future increases.

Trustees Ashcraft and Patrick explained the restrictions involved in an enterprise fund. There are specific sources for income to an enterprise fund, and the funds can only be used for specific purposes. That is why it is necessary to have consultants watching the numbers. Last year, we did not sell enough building permits, and only had three months to fix the problem. There were several factors involved in our short supply of water last year. While this is not a money making venture, this was an inducement to make sure we had water. Our water was cut off last year on August 15, 2003 and we were unable to get more water until the spring. We were looking at trucking water in to water our trees and monitoring our water consumption on a daily basis. The Board is doing their best to balance revenues versus needs.

Mayor Karspeck closed floor for public comment and returned the item to the Board.

Trustee Gregg pointed out that this change in the rate structure brings the rate for users outside the Town limits down from 13.77 per thousand to approximately \$8 per thousand, which is a substantial variation.

**Trustee Patrick moved to approve Ordinance 970 which adopts alternative C, with a modification to the emergency clause, to become effective with the October, 2003 billing and to be in effect for all billings thereafter. Second by Trustee Buckingham. All members voted YES.**

Mayor Karspeck called a break at 9:55 p.m.

Board members reconvened at 10:08 p.m.

#### **GATEWAY PARK: REIMBURSEMENT AGREEMENT**

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Planner Reed noted the Gateway Park reimbursement agreement provides the developer with a mechanism to recover costs associated with the oversizing of water mains, sanitary sewer mains and a storm water culvert. At the Town's request, the developer oversized certain public improvements at his own expense.

Bob Revis of Roach Constructors was present representing Gateway Park. He noted he reviewed this agreement and there were corrections on page 6.

Mayor Karspeck noted this construction was done at no cost to the Town.

Attorney Fickel noted the Town has the ability to ask developers to oversize public improvements and then recover the cost of those improvements from developers of adjacent properties. An outside engineer certified the amounts included in the agreement are attributable to the cost to oversize the improvements. When this is done, the developer has put in improvements that the Town would have to do at a later time. This allows the Town to get the improvements done and the cost is shared by other developments. He noted section 7 needs to be amended to state that "It is understood and agreed that unless and until any property owner/developer has reimbursed Developer all amounts owed by said owner/developer as per this Agreement, the Town shall withhold any requested certificates of occupancy for any improvements upon any lot within the owner's /developer's property." With this change, staff is recommending approval.

Trustee Gregg asked if the engineer is certifying the upsize calculations or the total price. Mr. Revis explained that the cost included in the agreement is the difference in price between the cost of standard lines and the cost of the upsize lines, and that is all they are asking to recover. Trustee Gregg thanked the developer for putting in the larger lines.

Trustee Buckingham asked Planner Reed how the costs are recovered. Planner Reed noted it is up to Town staff to determine when reimbursement is necessary and at what percentage. If the Town fails to make this occur, then the developer has the right to collect the funds directly from the other developer.

Trustee Buckingham suggested staff needs to determine shares based on other developments that will use these improvements. Planner Reed noted at this time, we do not have plans for all of the developments that will use the improvements. There is a risk to the initial developer that they will not recover all their funds, but they have the option to extend this agreement to allow them to recover funds from future developments.

Trustee Buckingham asked if the Town will be required to absorb any additional costs. Trustee Gregg noted this agreement does not require any out of pocket costs to the Town. This agreement allows the Gateway Developer to collect from future developers. The only thing the Town is required to do is withhold certificates of occupancy for developers who do not pay Gateway for the use of these improvements. Attorney Fickel noted Gateway is entitled to reimbursement for the funds they have invested and they have been cooperative. This agreement is fair to everyone. Gateway gets reimbursed for the improvements, and the other developers get to pay for the improvements at 2003 prices.

Mayor Karspeck opened the floor for public comment.

Cameron Grant of M & K Developments, representing the Village of Matthews Farm, addressed the Board, noting that both the Villages and the Estates contemplated reimbursing Gateway for the improvements. However, this is the first time they have seen this agreement, and they would like time to discuss this directly with Gateway for direct reimbursement. He asked the Board to delay approval to allow them to work something out between the two developments.

Mr. Rivas noted that Gateway Park would prefer to move forward and get this approved this evening.

Attorney Fickel noted if this agreement is approved this evening, it could be amended if they work out a different agreement.

Mr. Grant noted this concern involves paragraph 7, which involves withholding certificates of occupancy. It would have been helpful if they had been able to factor in this cost six months ago. At this point, the project has been sold and builders are ready to pull permits, and they want to be able to come to the town for certificates of occupancy when construction is complete. They have not had the opportunity to calculate their share of the improvements. He asked the Board to delay approval for two weeks to allow them time to resolve this issue between the two developments. If the agreement is approved this evening, it would be more difficult to amend and would have a negative impact on their ability to go forward.

Trustee Gregg suggested the developers meet with Planner Reed to determine what percentage needs to be considered. Mr. Grant noted their concern is the amount of the check that must be issued before certificates of occupancy can be issued. Builders who are otherwise ready to pull permits are not going to pull those permits if there is no guarantee that a certificate of occupancy will be issued. He noted this might be grounds for negotiation between the two developments.

Planner Reed noted Mathews Farm has all public improvements accepted and they are ready to pull permits. They are the only development that will be immediately affected by this agreement. All other developments in the area are still in the review process, and they will have time to plan for these costs as a part of their project.

Trustee Patrick suggested the Board delay this item two weeks to give the two developers the opportunity to see if they can get this resolved. If that does not occur, the Board can approve this document and it will be binding for all the developers in the area.

Mayor Pro-Tem Foote asked how the delay would affect Gateway Park. Mr. Revis noted they would be agreeable to a two week delay, but any further delay would be detrimental to their project. He pointed out that if they had not been willing to make these improvements, Matthews Farm would not have been able to do their development.

Mr. Grant asked Attorney Fickel if he would be willing to meet with the developers and work to resolve this issue. Attorney Fickel agreed. Board members asked that this item be put on the agenda for September 9, 2003.

#### **ESTATES AT MATTHEWS FARM DEVELOPMENT AGREEMENT**

Planner Reed noted the Estates at Matthews Farm development agreement finalizes the approval of this PUD, containing 29 single-family lots. He summarized the specific construction arrangements outlined in Addendum C.

Mayor Karspeck noted we are not collecting a Density Transfer Fee on this property. Planner Reed confirmed this is correct and explained how the fee is calculated and why this property is not charged this fee. Mayor Karspeck noted there may be a surcharge for the water taps.

Mayor Karspeck asked about the possibility of using reduced light fixtures within this development. Planner Reed noted that was included in the initial plan and they will be using 13 foot lights which are shorter than the standard lights and less intense. The lights will be directed down, rather than out.

Trustee Buckingham asked if we are waiving 64% of the water dedication for this property. He noted these are large lots, and asked if the non-potable system will take care of all irrigation. Planner Reed noted that while these are large lots, not all of the lots will be irrigated. The owners of the property will be restricted regarding how much they can landscape. The majority of the lots will remain native.

Trustee Thorstensen noted both treated and untreated water will be available on the lots and he asked if it is possible to use treated water to irrigate. Mr. Weibel noted that is a possibility, but should not be an issue since the non-potable water will be provided for irrigation. He pointed out that there will be specific guidelines regarding how much of the building site can be landscaped, with the remainder in native grasses.

Mr. Weibel noted he made arrangements for water and Handy Ditch will be turning the water on and off.

Mayor Karspeck noted the use of non-potable water is a learning experience. Mr Weibel agreed, noting he will have water this year until September 15. He noted next year when there are houses on the properties, this will need to be monitored more closely.

Trustee Buckingham asked how the amount of the discount was determined. Mr. Grant noted Aqua Engineering did a study based on the amount of irrigated land and came up with how much more treated water would be used if there was no other water for irrigation. This was reviewed extensively when the Villages of Matthews came before the Board.

Mayor Karspeck was pleased that Handy Ditch will be managing the water supply for this development. He noted studies have indicated the most effective manager for a non-potable system is the ditch company.

**Trustee Gregg moved to approve the development agreement for the Estates at Matthews Farm with the condition that the cost estimated contained in Addendum "B" be revised to reflect the oversizing costs associated with roadway improvements to County Road 19. The revised cost estimate shall be approved by the Public Works Director prior to the recording of the development agreement.. Second by Mayor Pro-Tem Foote. All members voted YES.**

#### **ERICKSON 2<sup>ND</sup> SUBDIVISION DEVELOPMENT AGREEMENT**

Planner Reed noted the Erickson 2<sup>nd</sup> Subdivision development agreement finalizes the approval of this PUD containing six single family lots. .

Trustee Patrick noted the amounts indicated on Addendum "B" have not been certified by an engineer, and asked how we know the numbers are accurate. Planner Reed noted they will provide certification from an engineer to be reviewed and approved by our Public Works Director prior to the recording of the document.

Trustee Patrick noted no amount is indicated for Park Land Dedication. Planner Reed noted the amount is still being negotiated, but will be agreed upon prior to the document being recorded.

**Trustee Buckingham moved to accept staff's recommendation to approve the development with the stipulations as noted and Park Land dedication to be agreed upon. Second by Trustee Thorstensen.**

#### **VOLUNTEER BOARDS AND COMMISSIONS**

Mayor Karspeck noted there were three applicants for the vacancies on the Tree Board; John Goresky, Pat Karspeck and Jeremy Lynch. The candidates were interviewed, and the members of the interview committee asked that their names be presented to the Board. Mayor Karspeck nominated the three applicants to serve on the Board for a four year term. With no further nominations and no objections, all were appointed by unanimous consent.

Trustee Gregg noted there were three applicants for the vacancies on the Parks and Open Space Board; Herb Meeker, Reggie Cross and Norma Banzhaf. The candidates were interviewed, and the members of the interview committee asked that their names be presented to the Board. Trustee Gregg nominated the three applicants to serve on the Board for a four year term. With no further nominations, and with no objections, all were appointed by unanimous consent.

Trustee Buckingham noted the interviews for the candidates for the Historic Preservation Commission have not been held. Town Clerk Cowdin noted we were trying to schedule these interviews for Thursday, August 28, 2003, and she will contact Trustee Buckingham to confirm his attendance.

Trustee Buckingham noted the next meeting for the Historic Preservation Commission is scheduled for this Wednesday, August 27, 2003 at 7:00 p.m..

Trustee Gregg noted interviews are not complete for the Planning and Zoning Commission, and it is anticipated that nominations will be presented at the next meeting.

Trustee Ashcraft asked that copies of resumes and letters of interest for all the candidates be provided to the Board, since they are responsible for appointing them to the Boards and Commissions.

Mayor Karspeck noted one comment that came from the Tree Board and the Parks and Open Space Board is that the applicants were already members of the Boards. It was suggested it should not be necessary to interview incumbent candidates, and only take the time to interview people that have not served before.

Mayor Karspeck asked Town Clerk Cowdin to be sure that the letters to the appointees include the term of the appointments.

#### **EXECUTIVE SESSION**

Mayor Karspeck noted Board members need to adjourn to an Executive Session for negotiations for the purchase of property. With no objection, the Board adjourned to an executive session at 11:05 p.m.

Board members reconvened from the Executive Session at 11:15 p.m. and with no further business adjourned.

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Milan Karspeck, Mayor

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Charlene Reed, Deputy Town Clerk