

The Board of Trustees for the Town of Berthoud met for a regular meeting on Tuesday, December 9, 2003 in the Board Room of Town Hall. Mayor Milan Karspeck called the meeting to order at 6:00 p.m.

MEMBERS PRESENT Mayor Milan Karspeck
 Mayor Pro-Tem Jenny Foote
 Trustee Don Ashcraft
 Trustee David Gregg (Arrived 8:45 p.m.)
 Trustee Michael Patrick (Arrived 8:33 p.m.)
 Trustee Peder Thorstensen

MEMBERS ABSENT: Trustee Glen Buckingham

STAFF PRESENT Town Administrator Jim White
 Town Clerk Mary Cowdin
 Building Official Patrick Buckley
 Chief of Police Bill Wegener
 Library Director Joe Gunter
 Museum Director Tom Vaughan
 Parks and Recreation Director Brian Saya
 Planning Director Wayne Reed
 Public Works Director Bill George
 Town Attorney Bruce Fickel
 Deputy Town Clerk Charlene Reed

EXECUTIVE SESSION

Mayor Karspeck noted the first item on the agenda is an Executive Session for negotiations. With no objection, the Board adjourned to an Executive Session at 6:02 p.m.

The Board Reconvened from the Executive Session at 7:05 p.m.

PLEDGE OF ALLEGIANCE

Mayor Karspeck led the pledge of allegiance.

CITIZEN PARTICIPATION

There were not items presented from the audience.

CONSENT AGENDA

The Consent Agenda consisted of 6a., the minutes of meetings held on November 4, 2003, November 11, 2003, November 18, 2003, November 25, 2003 and December 2, 2003, the Financial Statement for October 2003, and the Bills Allowed for November 2003.

Mayor Pro-Tem Foote moved to approve the Consent Agenda as presented. Second by Trustee Ashcraft. All members voted YES.

RESIDENTIAL ARCHITECTURAL STANDARDS PRESENTATION BY RMMI ON MASONRY REGULATIONS

Planner Reed introduced Ann Sullivan Wolter, the Executive Director of the Rocky Mountain Masonry Institute to give a presentation on the inclusion of masonry in architectural standards. The intent of this presentation is to advance the understanding of the role of masonry in architectural standards. Planner Reed noted as the Board examines adopting standards, it should consider whether masonry should be incorporated to ensure future neighborhoods continue to add to the community's identity, attractiveness, and value.

Ms. Wolter presented a slide show regarding the advantages of using brick in residential and commercial construction, and recommended that the Town consider an ordinance that requires the use of brick in construction in Berthoud.

Trustee Ashcraft asked if a survey has been done in the existing Town regarding the use of brick. He noted this process is something the Historical Preservation Commission could conduct.

RESOLUTION WWTP ENGINEERING COST MODIFICATIONS.

Attorney Fickel presented information outlining the issues referenced as "Claims" in the matter of the Town's claims against Black and Veatch Corporation. Although Black and Veatch Corporation deny any wrongdoing or liability to the Town, this resolution would confirm their agreement to give the Town a credit of \$50,000 against current billings. Upon settlement, the Board would agree not to take further action regarding the occurrences defined in the letter from Administrator White, which is incorporated in the Resolution by reference.

Mayor Karspeck agreed he would support the resolution and felt it would be appropriate to avoid litigation. He noted he would have a problem with not being able to discuss these incidents with others. Attorney Fickel noted any items addressed in the letter become public information and can be discussed.

Mayor Pro-Tem Foote noted the reduction in revenues would be welcome, but she agreed if someone asked about the incident, it would be difficult not to respond. Attorney Fickel noted if the information discussed is referenced in the letter, it is public information.

Attorney Fickel noted he has drawn up an agreement for the Board to consider. Board members requested this item be continued to the next meeting, December 16, 2003.

**CONTINUATION OF WILSON RANCH PUBLIC HEARING –
WILSON RANCH ANNEXATION AND REZONE**

Mayor Karspeck opened the floor for public comment regarding the Wilson Ranch. There were no comments from the floor.

Planner Reed noted that at the meeting on December 2, 2003, the Board continued the public hearing for the Wilson Ranch annexation, rezoning, ODP and development manual to this meeting. He summarized a staff report which clarified what has been done on this project since November 11, 2003, and noted review this evening will begin with Section 6.

Troy McWhinney and Steve Schroyer of McWhinney Enterprise addressed the Board. Mr. Schroyer noted residential standards were revised three months ago, based on recommendations by Kevin Yoshido of Arlo Braun and Associates.

Trustee Ashcraft commended McWhinney for the historical aspects and diversity included in the manual.

Trustee Thorstensen asked Mr. McWhinney's opinion of the masonry design standards that were presented earlier in the meeting. Mr. McWhinney noted good development depends on having a good developer and a good builder. He noted brick homes can be poorly done, and homes that do not include brick can be award winning. He pointed out that Johnstown has a masonry requirement for 20-40% on new construction, and the homes they are building may not be as high quality as we would require for Berthoud.

Trustee Ashcraft noted the homes in Mary's Farm are primarily brick, but there is no diversity in the neighborhood. He noted he would like to see some brick included in the Wilson Ranch Development.

Mr. McWhinney noted the homes included in the photos in 6-3 includes reflect quality architecture. You could put \$15,000, or 6% of the purchase price in enhancing the home with brick or with landscaping, and both would improve the appearance of the homes. He pointed out there are many ways to improve the presentation of a house.

Mayor Karspeck noted the garage setback in 6.7 is a minimum of four feet. He pointed out that Berthoud currently required ten feet. Mr. McWhinney noted they are asking for

this specifically to accommodate the cottage homes they are including. These are smaller structures on small lots, and having the smaller setback requirement would allow them to make better use of the lots. He asked for time to discuss this with their architects before making any changes. Trustee Ashcraft suggested the wording be amended to allow the 4' setback for the cottage homes and then require the 10' setback for all other garages.

Board members reviewed Section 7, Street Standards.

Planner Reed noted this section includes the information regarding the tree lawn widths. That topic is being researched and will come back to the Board at a future meeting.

Mr. Schroyer noted the street standards were reviewed by John Sayer, the Town's traffic engineer, and he had no objections to what was presented.

Mayor Karspeck noted the manual includes several setbacks for fences next to sidewalks and he was pleased with how this was presented.

Board members reviewed Section 8, Landscape/Openspace Performance Standards. Mr. Schroyer noted after all the open space discussion that has occurred, they would like to refine the definition of open space. He distributed copies of the newly proposed definition of open space for Board consideration.

Mr. Schroyer explained that the new definition includes three separate elements of open space, Open Lands, Development Open Space, and Active Parkland. These aspects are defined, and the amount of land to be included in each has been designated. There will be 13%, or 182 acres, of Open Lands, 10% or 140 acres of Development Open Space and a minimum of 7% designated as Active Parkland.

Trustee Ashcraft questioned whether school yards should be considered under Active Parkland. Mr. McWhinney asked if he would prefer to see it as part of the Development Open Space. Trustee Ashcraft noted the Town has an arrangement with the R2J School District to share the school yards. At this time, we have not developed that same relationship with Weld County.

Mr. Schroyer noted if they do a shared maintenance agreement with the school district and maintain the school yards, they would anticipate credit for that land as a part of either Development Open Space or Active Parklands.

Mayor Pro-Tem Foote noted Active Parkland is permitted within Open Lands, which would still allow for the land to be counted twice. Mr. Schroyer agreed, noting there may be trails that pass through the Open Lands. Mayor Pro-Tem Foote noted she would have a problem counting the same piece of land in two categories.

Mr. Schroyer noted that was one reason they originally asked to set aside 30% and then let them decide where the 30% will be located.

Trustee Thorstensen asked how Roberts Lake would be classified. Planner Reed noted that is dedicated to the Town and would be included as Active Parkland. Trustee Thorstensen noted the school yards in the area around Roberts Lake are more like a park than the area around Roberts Lake.

Attorney Fickel suggested school grounds could be considered as Active Parkland if there is an agreement between the Town and the Weld County School District to allow joint usage.

Mayor Karspeck noted under section 8-7, berms are encouraged. He suggested that should say berms are encouraged where appropriate. There are areas along I-25 where it would not be appropriate to include a berm, as it would limit views to the west.

Trustee Ashcraft noted he would prefer to see native grasses in the setback areas. Turf grasses in these areas require an amazing amount of water. Mr. Schroyer agreed, but noted in many cases, they are hampered by CDOT restrictions for what is allowed in the setback areas.

Mayor Karspeck noted Arborist Shiloh Hatcher reviewed this manual, and he felt there was a lot left out regarding requirements for the species allowed and the planting requirements for trees. Planner Reed noted Mr. Hatcher has not responded to the Planning Staff regarding this manual. Mayor Karspeck noted the plan was discussed at the Tree Board meeting. Mr. McWhinney noted they will meet with him to determine what revisions need to be made in this area.

Trustee Ashcraft noted it is important that we include all requirements already in the Town Code. He noted the caliper requirements in this manual are excellent, exceeding the requirements in the Town Code.

Mayor Karspeck suggested Planner Reed provide a copy of the guidelines for trees already approved by the Town.

Trustee Ashcraft there is a movement in the landscaping industry to get away from standard commercial edging. There is a new metal commercial edging that has a rolled top, which is much safer, and he asked that it be included in Section 8.2.

Mr. McWhinney and Mr. Schroyer summarized Section 9, Regulatory Procedures, which is the next section for review. This chapter defines the Design Review Committee, who will enforce this document. They will also have the ability to impose new ideas in the Development. This has been very successful in Loveland and other master planned communities.

Trustee Patrick arrived at 8:33 p.m.

Mayor Karspeck asked for an explanation of exhibit 9-1. Mr. Schroyer noted Exhibit 9-1 explains the use by right process. Requests must be approved by the DRC before they are presented to the Town for approval. He explained how this process works, noting it has internal guidelines built in. Appeals of staff decisions go to the Planning Commission, and then final appeals would go to the Town Board.

Mr. Schroyer noted if a request requires a special use review, it is first considered by the DRC, and then will go before the Planning Commission and the Board of Trustees.

Mr. Schroyer noted Section 10 is definitions, and this section will continue to be revised as changes are made in the manual. It will be finalized once the manual is complete and ready for approval.

Mayor Karspeck asked when the Board will be able to see revisions. Mr. Schroyer suggested they bring the revised redlines for Sections 1-7 back to the Board for review at the next meeting.

Mayor Karspeck opened the floor for public comments and there were none.

Mayor Pro-Tem Foote moved to continue the Wilson ranch Annexation, Rezoning, Overall Development Plan and Development Manual public hearing to December 16, 2003. Second by Trustee Thorstensen. All members voted YES.

REPORTS

Administrator White announced that the Berthoud Dance Company will be presenting the Nutcracker on Saturday, December 13, 2003, with two performances at 2:00 p.m. and at 7:00 p.m. Tickets are \$12.00 for adults and \$7 for children.

Mayor Karspeck called a recess at 8:40 p.m.

Trustee Gregg arrived at 8:45 p.m.

The meeting reconvened at 8:50 p.m.

ORDINANCE TO INCREASE LICENSE FEES

Mayor Karspeck opened the public hearing and explained the proposed changes for the fees for a solicitor's license, a mobile home license, a trash hauler license and a tree surgeon license. Administrator White noted none of these fees have been reviewed for over ten years. Staff is recommending the proposed increases, and further reviews will be done on an annual basis.

Mayor Karspeck noted this ordinance includes an emergency clause to allow the fees to be in effect in January.

Administrator White noted each of the fees is explained in the ordinance and there is a brief explanation of the administrative functions and other factors involved with each license process.

Trustee Gregg asked what quantitative assessment was done to arrive at the increases. Mayor Karspeck noted this was discussed during the Finance Committee meetings and the basis of the increases was the amount of time and effort involved in monitoring the various licenses.

Trustee Ashcraft noted information was also gathered regarding the license fees charged by neighboring towns.

Mayor Karspeck opened the floor for public comments and there were none.

Mayor Karspeck read the title of the ordinance.

Mayor Pro-Tem Foote moved to adopt Ordinance 978, and ordinance of the Town of Berthoud, increasing various license fees. Second by Trustee Patrick. All members voted YES.

2004 BUDGET ORDINANCES

Mayor Karspeck opened the public hearing for the 2004 Budget.

Administrator White noted the Budget ordinances must be approved this evening to meet the statutory deadline. Department Directors are present to respond to any questions. Administrator White thanked Mayor Karspeck, Mayor Pro-Tem Foote, Trustee Ashcraft, Trustee Buckingham and Town Clerk Cowdin for their participation on the Finance Committee. He summarized the Budget Message and commended the Department Directors and Superintendents who participated in the budget process. He presented highlights from 2003:

The Raw Water Pipeline came in at least \$100,000 under budget and the Town anticipates a refund for the vault. We will have to pay the Bureau of Reclamation for use of the pipeline, but we will continue to work on a permanent agreement with them.

The Town completed one conservation easement for the year. The Hofmeister Farm Conservation Easement was completed in February, 2003. We hope to work with Colorado Open Lands to find other areas for 2004.

Mayor Karspeck did an extensive amount of research on uses for our Welch Contract Water, and we were able to use this water for nonpotable irrigation water at Bein Park and on the Town's athletic fields. In anticipation of being able to use this water again in 2004, we have set aside \$10,000 to purchase a pump to regulate water flow and to increase the size of our holding pond.

The Town installed four pieces in our Sculpture in the Park Program. Two sculptures are on loan, and one piece was donated to the Town. Centennial Bank of the West also has a permanent sculpture in front of their building.

We have made improvements to Hillsdale Park. We put in a two inch water tap to accommodate an irrigation system to water the trees planted last year and completed a one mile walking path.

The construction of the new wastewater plant continues, ahead of schedule. During 2003, we completed a change order to increase the size of the plant to 2 mgd, and we anticipate having the plant in operation in late spring or early summer, 2004.

As a part of our goal to keep downtown the center of the community, the Town donated \$25,000 to the Main Street Enhancement Program. The most exciting project for this group this year was the Farmers Market which was very successful.

June in Berthoud was a great success this year. This was the first time that all the involved organizations consolidated their efforts, working together to create a high quality magazine which represented all the participants.

Safeway completed their PDP in 2003 and they anticipate the construction of a 43,000 square foot store in 2005.

The Wilson Ranch Annexation and Development Agreement has been a focus in 2003, and will continue into 2004.

The Town of Berthoud was fortunate to receive an additional \$350,000 in funding for a roundabout, which will increase our ability to go forward with this project.

Master Planning continues to be the focus of the Board. Administrator White commended Planner Wayne Reed for obtaining an \$85,000 grant from GOCO for Parks, Open Lands, Recreation and Trail planning. This grant allowed the Town to participate in the Best and Brightest Intern Program with the University of Colorado at Denver and the Department of Local Affairs. At this point, we were only able to commit to one year in the program, but we were allowed to participate and they asked that we make our best effort to extend our commitment for the second year. The cost to the Town for this intern will be \$13,000, and we will be receiving matching funds from DOLA. This will allow us to have a full time graduate level intern.

During 2003, the Town completed two annexations; the Simpson Annexation and the Golden Acres Annexation. That added a total of 101 acres to the Town.

Mayor Karspeck commended Administrator White on the budget message and presentation. He read the title of the ordinance authorizing the expenditure of funds in excess of the 2003 budget and summarized the expenditures included.

Mayor Karspeck opened the floor for public comment. There were no comments.

Trustee Patrick moved to approve, on an emergency basis, Ordinance 979, an ordinance authorizing the expenditures of funds in excess of the 2003 budget. Second by Mayor Pro-Tem Foote. All members voted YES.

Mayor Karspeck read the title of the ordinance appropriate sums of money to various funds for the 2004 budget year. He opened the floor for public comment.

Scott Banzhaf of 1206 4th Street addressed the Board, asking where the funds set aside for street improvements in the 1% sales tax line item will be spent. He asked if these funds will be pooled for larger projects or used this year.

Administrator White noted the most recent major expenditure of these funds was the 2nd Street project in 2002.

Mayor Karspeck noted unused funds carry over from year to year, but the decision for the allocation of funds is made by the Board based on need. In this year's budget, the Board set aside \$65,000 for street projects and ADA improvements. Town Clerk Cowdin noted half of the \$65,000 is set aside to continue with curb cut accesses to comply with the American with Disabilities requirements. The remainder will be used for general repairs.

Mr. Banzhaf asked if the funds will carry over for future overlay projects. Mayor Karspeck noted the funds are allocated on a year by year basis, and there are specific guidelines for its usage. We have set aside \$501,000 for this fund for 2004, and we are only anticipating revenues of \$368,000. Several groups have needs that must be met with these funds, and we try to allocate the funds to meet all of those needs.

Mr. Banzhaf commented on the allocation of funds from the Conservation Trust Fund, noting that over the years, it has been important that these funds be used in projects for the community that can be identified with a sign that says "Your Conservation Trust Funds provided" Pioneer Park is only receiving \$2,000 from this fund, and the Nelson Greenway, which is an existing greenbelt, is receiving an equal amount. Insect control is receiving \$18,000 of the Conservation Trust funds. In other communities, mosquito control is done by the Town and a fee is charged for this service. He noted it is important that the funds set aside in the Conservation Trust Fund be used for worthwhile projects.

Mayor Karspeck agreed, but noted in this tight budget year, there were needs we were unable to fund. We looked at charging a fee for insect control several years ago, and were unable to get Board support.

Administrator White noted that Pioneer Park will be a part of the park planning that will be done in 2004. Actual expenditures for improvements to the park should occur in 2005. He also noted it was important to identify funds for mosquito control, since it is anticipated that we will have problems with West Nile Virus again in 2004.

Mr. Banzhaf noted other fees were increased this evening, and this should have been considered with those. He noted he objects to using lottery funds for this type expenditure. He would like to see Conservation Trust funds used for significant improvements that citizens can be proud of. Mayor Karspeck noted that may be something we can consider for 2005 if we have better revenues in 2004.

Trustee Ashcraft noted with limited funds, it was necessary to be creative to meet the needs of the Town. He agreed with the desires to set aside Conservation Trust funds for more significant projects, but noted it was difficult to find other funds to meet these expenses. He noted the Board has considered adding a fee to the utility bills, but noted they did not want to further burden our users.

Trustee Patrick suggested we may need to look at this further down the line. West Nile Virus may be an ongoing problem, and we may want to find other options to pay for this service. He noted a small charge on the utility bills would not be significant for the users, but would allow us to provide this service without using Conservation Trust funds.

Mayor Karspeck noted we were working with limited funds and this is an unusual situation. He agreed we may want to look at this again prior to budget year 2005.

Mayor Pro-Tem Foote moved to approve, on an emergency basis, Ordinance #980, an ordinance appropriating sums of money to various funds for the 2004 budget year. Second by Trustee Gregg. All members voted YES.

Mayor Karspeck read the title of the ordinance adopting the budget for the Town of Berthoud, Colorado for the fiscal year beginning January 1, 2004 and ending on the last day of December 2004. He opened the floor for public comment and there were none.

Mayor Pro-Tem Foote moved to approve, on an emergency basis, Ordinance #981, an ordinance adopting the budget for the Town of Berthoud Colorado for the fiscal year beginning January 1, 2004 and ending on the last day of December 2004. Second by Trustee Patrick. All members voted YES.

Mayor Pro-Tem Foote commended staff for their efforts and specifically thanked Town Clerk Cowdin, who put in a lot of hours to get the budget completed.

Mayor Karspeck read the title of the ordinance levying the taxes for the year 2004 to defray the costs of municipal government of Berthoud, Colorado, for the fiscal year beginning January 1, 2004 and ending December 31, 2004. The mill levy this year is 6.301 mills, with 5.801 mills for the general fund and .5 mills for the Library. He opened the floor for public comments and there were none.

Mayor Pro-Tem Foote moved to approve Ordinance 982, on an emergency basis, an ordinance levying the taxes for the year 2004 to defray the costs of municipal government of Berthoud, Colorado, for the fiscal year beginning January 1, 2004 and ending December 31, 2004. Second by Trustee Ashcraft. All members voted YES.

Administrator White summarized the items included in the Capital Improvement plan for 2004 and Board members identified the items they would like brought back to the Board for review.

Attorney Fickel requested an Executive Session for negotiations. With no objections, and by unanimous consent, the Board adjourned to Executive Session at 10:02 p.m.

The Board reconvened at 10:50 p.m. and with no further business, adjourned.

Mayor Milan Karspeck

Deputy Town Clerk Charlene Reed