The Board of Trustees for the Town of Berthoud met for a regular meeting on Tuesday, January 28, 2003, in the Board Room of Town Hall. Mayor Milan Karspeck called the meeting to order at 7:30 p.m.

MEMBERS PRESENT:	Mayor Milan Karspeck Trustee Don Ashcraft Trustee Glen Buckingham (arrived 7:35 p.m.) Trustee David Gregg Trustee Michael Patrick (arrived 7:38 p.m.) Trustee Peder Thorstensen
MEMBERS ABSENT:	Mayor Pro-Tem Jenny Foote
STAFF PRESENT:	Town Administrator Jim White Police Chief Bill Wegener Police Officer John Vienhage Public Works Director Bill George Planner Wayne Reed Parks and Recreation Director Brian Saya Parks Leader Jeremy Olinger Attorney Bruce Fickel Town Clerk Mary Cowdin Deputy Town Clerk Charlene Reed

PLEDGE OF ALLEGIANCE

Mayor Karspeck led the pledge of allegiance.

CITIZENS PARTICIPATION

There were no items presented for consideration under citizen participation.

CONSENT AGENDA

The consent agenda consisted of 5a., the minutes for the regular meeting on January 14, 2003 and the special meeting on January 21, 2003; 5b., the financial statement for December 2002; and 5c., the liquor license renewal for Sky Petroleum.

Trustee Ashcraft moved to approve the consent agenda as presented. Second by Trustee Gregg . All members voted YES and the consent agenda was approved as presented.

AWARD PRESENTATION

Chief of Police Bill Wegener and Mayor Karspeck presented commendations to two officers, Berthoud Officer John Vienhage and Larimer County Sheriff's Department Officer Ryan J. Alberts, who were the first to arrive on the scene during the hostage situation in Berthoud on November 8, 2002. Chief Wegener commended the officers for their efforts during the standoff, noting that all of the hostages were rescued.

STAFF REPORT – WATER

Public Works Director George advised the Board that due to the drought, the water is receding in the Welch Reservoir, exposing a berm which is dividing the remaining water into two pools. Berthoud's pumping plant intake is in the east pool and the water coming into the pool on the west side is not flowing at a high enough rate to keep enough water moving consistently between the pools. The Town will need to rent a large pump and pump the water from the west pool to the east pool to keep water flowing into our water

plant. He requested Board approval for this expenditure, anticipating the total cost will be approximately $20,000 from reserve funds. Board members discussed alternate solutions with Public Works Director George, and noted in order to keep our water flowing, this is the most cost effective solution.

CONTINUE PUBLIC HEARING – VACATION-OF-RIGHT OF WAY 1005 5TH STREET

Mayor Karspeck re-opened the public hearing for the vacation of right-of-way for 1005 5th Street.

Attorney Fickel noted this public hearing was continued because of an incorrect legal description. We now have the correct information and can proceed with the vacation of the right-of-way. In exchange for vacating this right-of-way, the Town is requesting a twenty foot public utility easement on the property.

The owner of the property, Tom Torres, was present. He thanked the Board for taking this under consideration and was agreeable to providing the public utility easement.

Mayor Karspeck opened the floor for public comment and there was none. Mayor Karspeck read the five findings of fact and the one condition recommended by the Planning Department.

Trustee Buckingham moved to approve the vacation of the right-of-way based upon the five findings of fact as stated and with the one condition as recommended.

Mayor Karspeck noted this action must be approved as an ordinance, and read the proposed Ordinance 955.

Trustee Buckingham withdrew his original motion and moved to adopt Ordinance 955, an ordinance vacating real property dedicated to the Town of Berthoud. Second by Trustee Ashcraft. All members voted YES.

BERTHOUD ELEMENTARY SCHOOL ATHLETIC FIELD/PARK PROJECT

Administrator White noted members of the Berthoud Elementary Athletic Field Project Committee were present to request that the Town partner in the development of a new community athletic field/park facility west of Berthoud Elementary School. As the town's contribution to this partnership, they are asking for an "in-kind" contribution of a 2" water tap, and relief from the raw water dedication fees. Administrator White noted the current cost for a 2" water tap is $32,000, and the raw water dedication fees would currently be approximately $164,000.

Michael T. Cook addressed the Board representing the Committee, noting that there are several individuals present to answer any questions the Board might have.

Board members had a number of questions regarding maintenance of the park, who would be responsible for the monthly water bill, and the possibility of utilizing a non-potable watering system for the park. Mayor Karspeck noted the Town already has an intergovernmental agreement with R2J Schools, and he suggested this issue needs to be addressed with the same type agreement. Mr. Cook noted they are agreeable to working closely with the Town and the School District to resolve these issues.

Trustee Ashcraft moved to direct staff to work with the R2J School District and their attorney and the Town's attorney to put together the agreements necessary to develop the park. Second by Trustee Buckingham. All members voted YES.

Administrator White introduced Jeremy Olinger and welcomed him to his new position as the Parks Leader for the Town of Berthoud.

PUBLIC HEARING – WATER/WASTEWATER RATES

Administrator White summarized the information presented, and distributed the proposed ordinance which reflects a 25% increase in rates for water and a 16% increase in rates for wastewater. He noted it is important that the Board take action on this increase at this meeting, to prevent us from having to come back with even higher increases. Although John Gallagher was unable to attend this meeting, there has been extensive contact over the past week to put together the rates that are being presented this evening.

Attorney Fickel stressed the importance of bringing in enough water revenue to meet our bond obligations. He noted we are trying to achieve the minimum increase and still meet our obligations. The proposed ordinance sets the rates for review quarterly, allowing us to make adjustments on a quarterly basis.

Trustee Gregg expressed concern that the spreadsheet from Mr. Gallagher indicates that the proposed wastewater increase will result in revenue bond debt service coverage of 189%, rather than the required 120%. He also noted that the Town collected an additional $54000 from the pre-sale of water taps. Those funds were put in a rate stabilization fund that the Board was told could be used to help us meet our bond compliance in future years. Trustee Gregg asked if that was considered in the proposed water rates.

Town Clerk Cowdin noted this was considered, but those funds can generally be used to offset non-compliance due to extraordinary circumstances, such as the drought. The Town must still be able to meet our bond obligation based on revenues generated in, and expenditures specific to, each calendar year. The rate stabilization fund cannot be used as part of the rate establishment process.

Board members discussed the importance of establishing rates that allow us to meet our obligations and noted it is important that Berthoud residents understand the need for these increases. It was noted that one element considered when projecting wastewater rate increases was the cost of the new wastewater plant. Mayor Karspeck noted that Administrator White presented a compilation showing Town debt, reflecting totals which clearly indicate we will be faced with higher rates in the future to meet our obligations.

Mayor Karspeck summarized the proposed ordinance and opened the floor for public comment.

Ralph Nelson of 1121 4th Street noted that he resides out of state for several months out of the year. He requested that the Board eliminate the wastewater charge for people who are not using the system at all.

Tom Jones 621 4th Street expressed concern over the rate structure being presented. He encouraged the Board to take into consideration that there will be limited water available this year, which may affect the water revenues. He suggested the use surcharge should apply at 6,000 gallons, rather than the 16,000 projected. He noted residents of the Town need to realize there will not be adequate water available for watering lawns and other forms of usage outside. He also suggested it is ridiculous to charge 50% more for users outside the city limits.

Mr. Jones also suggested the Town should have the ability to sell more than 20 taps in 2003. We have an inventory of lots ready for construction this year, and have developers with their infrastructure in who should be actively marketing homes in the area. He predicted this should result in sales of more than twenty homes in Berthoud in 2003.

There were no further comments from the audience.

Board members noted Mr. Gallagher looked at an alternative projection based on 6000 gallons per household, and that would have required a 90% increase in the rates for 2003. One reason the Board will be reviewing this ordinance quarterly is to review revenues and make adjustments.

Trustee Gregg noted we are considering a significant increase for water and suggested we eliminate the increase for wastewater.

Board members discussed options for the use of any excess funds collected over and above the amount required to meet our debt service coverage. It was suggested that any excess water funds collected could be used to purchase additional water.

Board members requested changes in the ordinance. The following paragraph will become Section 4 and will be revised as follows:

The rates established in this ordinance shall be reviewed on a quarterly basis to ensure that the purpose for which they are enacted, namely conservation of water, bond compliance, and fiscal responsibility are being achieved. The next paragraph can then be deleted.

Attorney Fickel suggested we also change the first line under section 1. We only need to repeal section one (1) of Ordinance 946, since the other two sections establish a watering schedule and the appeal process for excess water usage, and should remain in effect.

Board members discussed the possibility of delaying the wastewater increases to allow time to talk with John Gallagher. Mayor Karspeck expressed concern that such a delay would result in even higher rates for the remainder of the year.

Mayor Karspeck moved to adopt Ordinance 956 with the change to repeal section 1 of Ordinance 946 instead of the entire ordinance, with the change to Section 4 to state the purposes for enacting the rate increases, namely conservation of water, bond compliance and fiscal responsibility, and with the next paragraph deleted, and with the Emergency Clause becoming Section 5. Second by Trustee Buckingham. Mayor Karspeck and Trustees Thorstensen, Patrick, Buckingham and Ashcraft voted YES. Trustee Gregg voted NO. Because this is an emergency ordinance, the motion failed.

Mayor Karspeck noted this is an emergency ordinance which requires a unanimous vote. He noted it is imperative that we go ahead with the water increase since any delay will require to rates to go even higher.

Attorney Fickel suggested that the ordinance could be amended to make the emergency clause apply to water rates only. That would allow the ordinance to be passed, as is, and the water rates could be put into place immediately. The wastewater rates would be effective 30 days after the ordinance is published.

Board members noted if we make that change and then find out we need the 16%, the wastewater rates will have to be adjusted even higher to meet our obligations.

Town Clerk Cowdin suggested the Board adopt the 16% increase in the wastewater rates and then put this item back on the agenda for the next meeting. At that time, we could ask John Gallagher for an explanation and justification of the rate increase, or the Board could make an adjustment to lower the rates.

Based on the plan recommended by the Town Clerk, Trustee Gregg asked the Board to renew the prior motion.

ALL MEMBERS VOTED YES AND ORDINANCE 956 WAS APPROVED AS AMENDED.

Mayor Karspeck asked staff to contact John Gallagher immediately to determine whether it is necessary to increase the wastewater rates by the entire 16%.

Mayor Karspeck called a recess at 9:25 p.m. The Board reconvened at 9:40 p.m.

PUBLIC HEARING RE I-25 VISION GOALS AND PREFERRED DEVELOPMENT PATTERN PLAN

Planner Reed noted the purpose of this agenda item is to allow public comments on the preferred development pattern plan for the I-25 area. He noted the preferred development pattern plan was a result of comments from the Board during their meetings on January 7 and 14, and the Planning and Zoning Commission meetings on January 9 and January 23, and summarized the elements of the plan as presented. He noted all comments received this evening will be forwarded to the Board , the Planning Commission and to Downing, Thorpe and James. Public comments can also be made on the web site as of the end of January. He suggested that the structure of this hearing focus on the vision and goals for the I-25 area.

Mayor Karspeck asked if there will be another meeting where the Board will have an opportunity to comment on the preferred development pattern plan. Planner Reed noted the Board will have that opportunity at a study session on February 18, and at a meeting on February 25.

Mayor Karspeck asked what we are trying to achieve with this meeting. Planner Reed replied we are soliciting public comment, noting the Board will have the opportunity to address this at future meetings. Our goal is to obtain information from the community regarding what residents would like to see at I-25.

Trustee Buckingham expressed appreciation for the amount of time and effort staff has taken on this project. He distributed a copy of his personal goals for the area, and asked if this is what Planner Reed is trying to obtain from the Board members. Planner Reed agreed and noted this input will be forwarded to Downing, Thorpe and James along with any public comment we may receive this evening.

Mayor Karspeck opened the floor for public comments.

Tom Jones of 621 4th Street addressed the Board, noting it is inevitable that this intersection will develop. The Town of Berthoud needs to be involved in this process, because it is our gateway. He suggested the development of the area needs to be looked at differently from Downtown Berthoud. We have the opportunity to do our best to develop the area, and this will be a lengthy process. The Town of Berthoud needs to take advantage of the opportunity offered by the development of the I-25 area.

Troy McWhinney with McWhinney Enterprises addressed the Board commending them on the use of Downing, Thorpe and James to establish a long range plan for the development of the I-25 area. He noted they were involved when the City of Loveland began developing their master plan. Loveland established specific land use guidelines for individual properties, resulting in problems between land owners. He encouraged the Board to use broader guidelines for the development of the I-25 area. He commented that McWhinney Enterprises would like more of the high intensity zoning on the southeast quadrant (1600 acres) to generate sales tax revenue for the Town.

Mayor Karspeck thanked those who commented.

Trustee Buckingham asked why it appears that quite a bit of high intensity usage has been located west of I-25. Planner Reed noted the topography of the area complemented the development of more high intensity usage west of the interstate. The area east of the interstate provides for medium intensity areas, which would be optimal for non-residential usages, including offices and retail. He noted this is subject to change as the Town attempts to put together a plan that will meet the needs of the Town and the property owners.

Mayor Karspeck suggested there are ways to distribute the higher intensity usage to blend with the topography of the area, and at the same time accommodate the desires of the McWhinney's for the development of their portion of the area. He noted this initial plan respects the I-25 Land Use Plan and respects the natural drainage areas. He questioned the proposed transportation loop and its purposes and suggested we get input regarding using this type of roadway from the MPO.

Planner Reed noted that Downing, Thorpe and James suggested this allows more access to high intensity areas by providing two roads, and noting the arterials could be smaller. This would allow for more building mass in the area.

Trustee Ashcraft noted one goal is to create more retail and commercial frontage to generate revenue for the Town of Berthoud. He noted that design guidelines have already been adopted by the Board for the I-25 area, and noted he would like to take that one step further. Berthoud is special and has the old town feel. He noted he would like to see this carry forward to the I-25 area, to make this area unique between 120th and the Wyoming border. He suggested the standards be tightened up to allow for increased pedestrian mobility, and to extend the old town feel from central Berthoud to the I-25 area. Planner Reed agreed and suggested the Board will define specifics of this type beginning in April.

Trustee Gregg commended Trustee Buckingham on presenting his written ideas in such a concise manner, and noted he will provide a similar document. He noted he would like to see a gradual transition from the agricultural buffer into the developed area at I-25.

Trustee Buckingham agreed, and suggested the Board needs to look at this area as an economic development area for the Town. The Town can manage the area, and with the right partner in the development community, it can be done to bring vitality to the community. The area needs to be master planned, with architecture reflecting the personality of the Town where possible. He noted it is important that we take advantage of a beautiful area, and define park and open space areas to maximize that.

RE-SET PUBLIC HEARING SIMPSON ANNEXATION

Planner Reed noted the legal notice for this annexation was forwarded to our newspaper twice and not published. Because of this, we need to rescind the previous resolution 1-03, reaccept the annexation petition and set a new date for the public hearing.

Mayor Karspeck asked why the newspaper failed to publish the legal notice. Administrator White noted we have contacted the paper and have requested a formal meeting to see if we can prevent this from occurring again.

Mayor Karspeck noted this reflects poorly on the Town and suggested if we have a further incident of this type, we consider using another paper as our paper of record.

Trustee Gregg moved to rescind Resolution 1-03, to reaccept the Simpson Annexation Petition and to set a public hearing date of March 11, 2003. Second by Trustee Buckingham. All members voted YES.

SET PUBLIC HEARING – ESTATES AT MATTHEWS FARM REZONING, FINAL DEVELOPMENT PLAN AND FINAL PLAT

Mayor Karspeck noted the purpose of this item is to set a public hearing for the rezoning, Final Development Plan and final plat for the Estates at Matthews Farm.

Trustee Ashcraft moved to set the public hearing for the Estates at Matthews Farm rezoning, final development plan and final plat for February 11, 2003. Second by Trustee Buckingham. All members voted YES.

TREE BOARD APPOINTMENT

Mayor Karspeck nominated Herb Meeker to fill the opening on the Tree Board. Mr. Meeker was interviewed during the last Tree Board meeting, and members feel he would be a good addition to the

group. With no further nominations, and no objections, Mr. Meeker was appointed to the Tree Board by unanimous consent.

DESIGNATE RECIPIENT OF FEDERAL TRANSIT FUNDS

Mayor Karspeck noted the North Front Range MPO received a request from the Federal Transit Administration (FTA) to take action on the certification of a Designated Recipient for FTA 5307 Urbanized Area Formula Grants in the Fort Collins Transportation Management Area (TMA). Fort Collins is currently the Designated Recipient and they have indicated their interest in continuing in this position. Mayor Karspeck suggested it might be more appropriate to allow the MPO to do this, since they would be a neutral party to disburse these funds. He suggested the Town endorse the North Front Range MPO as the designated recipient of Federal Transit Administration funds.

Administrator White agreed, noting there has been concern regarding how the funds might be distributed if other entities are involved in making the decision. The logical conclusion would be for the MPO to have the final say, since they would be impartial between all the parties.

Board members discussed this item and felt the MPO would be a good choice to be the recipient since they would be impartial in dividing the funds.

Mayor Karspeck noted there is a meeting scheduled to discuss this on Thursday, and the Board will not need to take further action until after that meeting.

MEMORANDUM OF AGREEMENT – MAIN STREET PROGRAM.

Administrator White noted the Town of Berthoud received their designation as a Main Street Community in December. The next step in this process is to approve a memorandum of agreement for participation in the Colorado Community Revitalization Association's Colorado Main Street Program. Once this is completed, we can go forward on February 7, 2003 to formally accept our designation. Mr. White also noted that following the resignation of Dee Dee Broes, Scott Banzhaf has been elected as President of the Main Street Enhancement Committee.

Trustee Buckingham moved to approve the Memorandum of Agreement for Participation in the Colorado Community Revitalization Association's Colorado Main Street Program. Second by Trustee Thorstensen. All members voted YES.

REPORTS

Mayor Karspeck reported that the North Front Range Metropolitan Planning Organization and the City of Fort Collins have two meetings scheduled for February 6, 2003 to look at options for commuter travel in Northern Colorado using commuter rail. These meetings will be held from 10:00 to 12:00 or from 4:00 to 6:00 at 625 9th Street in Fort Collins.

Administrator White reported that the Town partnered with Ivy Stockwell on a grant application for playground equipment and we were awarded $20,000. The Ivy Stockwell Playground Committee has also done extensive fund raising and they are very pleased to have this opportunity.

Administrator White noted that Town staff has requested a traffic control plan from SEMA for the 287 Bypass to assist us in dealing with traffic concerns raised regarding this project.

Administrator White reported that Public Works Director Bill George is following up with the developers of Mary's Farm to resolve traffic signage.

Administrator White noted that the first meeting for the Northern Integrated Supply Project participants is scheduled for Wednesday, January 29, 2003 and we will have better information regarding this project after the initial meeting.

Administrator White noted a delegation from the Town will attend the meeting where Mayor Karspeck will officially accept our Main Street designation on behalf of Berthoud and the Main Street Enhancement Committee.

Administrator White noted the Statewide Transportation Conference is scheduled for January 30, 2003. Information is available for anyone interested in attending.

Administrator White reported that the meeting on February 4, 2003 is scheduled as a Board Retreat. Don Sandoval from the Department of Local Affairs has been invited to moderate the portion of the meeting regarding goal setting. This meeting is scheduled for 5:00 to 9:00 next Tuesday, February 4, 2003 at the Wayside Inn. He noted there is also an executive session planned to discuss a personnel issue.

Administrator White noted that Staff has been in active negotiation with Ken Knieval for water rights to 30 acre feet of CBT Water. He requested approval from the Board to pursue the purchase of this water. Attorney Fickel noted we need to clarify that the purchase is for 30 acre feet, and not 30 units, but if that is correct, we would like Board approval to proceed with the purchase. Board members discussed the benefit the Town would obtain from this purchase.

Trustee Buckingham moved to approve the purchase of 30 acre feet of CBT Water from Ken Knieval at a cost of $12,000. Second by Trustee Patrick. All members voted YES.

EXECUTIVE SESSION

Mayor Karspeck noted the purpose of the executive session scheduled for this evening was to discuss Administrator White's review. He recommended this be delayed until next week, since Mayor Pro-Tem Foote was unable to attend this evening's meeting. Board members agreed.

Attorney Fickel noted he has historically given out an evaluation form for the Town Attorney and asked if the Board would like him to distribute this in their packets on Friday. Board members agreed.

With no further business before the Board, the meeting adjourned at 11:00 p.m.

_____
Milan Karspeck, Mayor

ATTEST:

_____
Charlene Reed, Deputy Town Clerk