

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
TUESDAY, JULY 22, 2003
Page 1 of 11

The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, July 22, 2003, in the Board Room of Town Hall. Mayor Karspeck called the meeting to order at 7:30 p.m.

MEMBERS PRESENT: Mayor Milan Karspeck
Mayor Pro-Tem Jenny Foote
Trustee Glen Buckingham
Trustee Michael Patrick

MEMBERS ABSENT: Trustee Don Ashcraft
Trustee David Gregg
Trustee Peder Thorstensen

STAFF PRESENT: Town Administrator Jim White
Town Clerk Mary Cowdin
Attorney Bruce Fickel
Deputy Town Clerk Charlene Reed

PLEDGE OF ALLEGIANCE

Mayor Karspeck led the pledge of allegiance.

CITIZEN PARTICIPATION

There were no items presented from the audience for citizen participation.

REPORTS

Trustee Buckingham announced that a Historic Preservation Commission meeting is scheduled for tomorrow, Wednesday, July 23, 2003. Ms. Cowdin advised him that this information was not forwarded to the Clerks office and this meeting has not been advertised. Trustee Buckingham noted the meeting will be cancelled.

Administrator White reported that the Farmers Market is going well. This success is due to the efforts of a number of people in Town, and we hope to use what we have learned this year to continue to make improvements in future years.

Administrator White noted internal meetings have begun with Department Heads to prepare for the 2004 budget process.

CONSENT AGENDA

The Consent Agenda consists of 6a., the minutes of the special meeting held on July 1, 2003 and the regular meeting held on July 8, 2003, and 6b., the financial statement for June 2003.

Mayor Pro-Tem Foote noted for the record that she was absent on July 8, 2003. She noted that there were several line items on the financial statement that were significantly over at the mid-way point. Professional Fees is an example, currently at 88%. She asked if this is something that we charge back to the developers.

Administrator White confirmed that Professional Fees are charged to the developers. He noted department heads and superintendents are being required to explain any items that are more than 15% over where they should be.

Mayor Pro-Tem Foote moved to approve the consent agenda as presented. Second by Trustee Buckingham. All members voted YES.

WILSON RANCH ANNEXATION

Administrator White reported work on this project is ongoing and staff and the applicant are requesting that this item be continued to the regular meeting of the Board scheduled for September 9, 2003.

Mayor Karspeck noted there is a representative present from Krug and Sobel, LLC. Marybeth Sobel addressed the Board, representing her clients Anadarko E & P Company LP ("Anadarko E & P"), formerly known as Union Pacific Land Resources Company, and Anadarko Land Corporation, formerly known as Union Pacific Land Resources Corporation with regards to the McWhinney Enterprises/Wilson Ranch Development Plan. She advised that they are working with the developer to resolve their issues regarding mineral rights, and will present the objections at the public hearing in September if they are not resolved prior to that time.

Administrator White asked for copies of the objection, and they were provided. Trustee Buckingham asked for specific information regarding this issue. Ms. Sobel responded that they work with owners of mineral rights to maintain access to those minerals after the final plat is approved. There are several properties involved in this annexation, and they will continue to work to resolve these issues prior to the hearing.

Mayor Karspeck moved to continue the public hearing for the Wilson Annexation to the regular meeting scheduled for Tuesday, September 9, 2003. Second by Mayor Pro-Tem Foote. All members voted YES.

UPDATE ON BERTHOUD HIGH SCHOOL FIRE

Administrator White noted the recent fire in the football stands was a tragic event for the Town. Meetings have been held with representatives from the Town, the Fire Department and the School District to discuss how this type incident is handled. One goal that has been identified is to improve communication between all the entities.

Terry Schueler, the Executive Director of Operational Services from the Little Thompson School District, addressed the Board. She noted one of her primary goals on accepting this position was to become more involved in community activities. She thanked Administrator White for his efforts in working with all the entities to improve the relationships and the communication.

Ms. Schueler noted the fire at the school occurred on Friday, July 11, 2003, and the press box was destroyed. Some of the bleachers were damaged, some beyond repair. She noted the first concern was for the people, and they were thankful there were no injuries. The School District has already ordered some replacement equipment that needs to be in before football season. However, it will take some time before they are able to replace the press box. There are parents who would like to see improvements in the box when it is replaced, and due to these efforts, it will not be ready for football season.

Ms. Schueler noted Administrator White set up several meetings among the separate entities, and these meetings have been helpful. She provided information to the Board regarding Berthoud's property losses in relation to other schools in the Thompson School District R2-J. According to this information, Berthoud schools account for 13% of the district locations, 11% of the property claims, 21% of the vandalism claims, and 54% of the total dollars for property claims. She noted 95% of Berthoud property claim dollars are attributed to vandalism and this information does not include the most recent incident, which occurred last night, when vandals threw fence posts through two cafeteria windows. The high rate of vandalism causes extreme concern for the School District.

Ms. Schueler introduced Lynn Sherman, the Principal of Berthoud High School, and noted he would appreciate input and assistance in looking for ways to resolve the vandalism issues. Ms. Schueler also noted Chief Steve Charles of the Berthoud Fire Department is present and she thanked him for his suggestions and ideas to try to prevent further incidents. She noted Administrator White has offered to take an active role in working with the students to resolve these issues.

Trustee Buckingham noted these statistics do not reflect well on the Town. Experience indicates that 90% of this type of activity comes from 10% of the students. He asked if the School District has a handle on where the vandalism is coming from, noting that the average student is usually not part of the problem. Ms. Schueler agreed, noting the vast majority of the students are not involved.

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
TUESDAY, JULY 22, 2003
Page 4 of 11

Principal Sherman agreed, noting that generally we have well behaved kids at Berthoud High School. These incidents tend to happen late at night when the majority of our kids are at home where they should be. He noted the overall opinion is that these incidents are being caused by one group of individuals. The School District, and the authorities have definite suspicions regarding who may be doing this, and the feeling is that these are not members of the upper classes. Once kids are 16 and have transportation, they tend to "get in their cars and go." He indicated that the overall feeling is that the kids that are causing this problem are in the 8th, 9th, or 10th grades.

Mayor Karspeck asked if these suspicions are being shared by all the entities involved. Mr. Sherman noted communication has been excellent between the School District, the Police Department and the Fire Department.

Trustee Buckingham noted the Board had a resident at the last meeting who indicated there are a known set of people he thought were vandalizing property that spend a lot of time by the swimming pool. He asked if there is any indication that some of these events are related. He suggested it would be beneficial to get all the interested parties together to share information and see if we can solve this problem.

Trustee Patrick noted the Board is not suggesting kids who spend time at the park are under suspicion, but it is clear that we have a significant problem. He noted two incidents of vandalism in Berthoud, the water loss in May 2000, and the recent fire, are responsible for approximately \$200,000 of our total losses. Without those two incidents, we would have a better than average record. \$200,000 is a significant amount of money, and we could have done good things with those funds. He encouraged all the entities to spend as much time as necessary to determine who is responsible for these occurrences.

Mr. Sherman thanked the Board for their concern and the offer of assistance from the Town. He reiterated that the feeling is that there are a small group of people involved.

Chief Charles shared limited information with the Board. He noted they have interviewed one individual who may have information regarding the fire, and have a polygraph scheduled for an individual next week. In addition, they received statements from a number of individuals regarding the fire and who may have been involved. There are several interviews planned for this week, and it is hoped that these individuals may have information regarding the fire. The Fire Department collected evidence north of the football field, which was sent to the Colorado Bureau of Investigation. The area of origin has been determined, and all accidental causes have been eliminated.

Mayor Karspeck asked how this investigation is being coordinated with the Berthoud Police Department. Chief Charles responded that he has been in daily contact with Chief Wegener and his staff, and they have been discussing certain names that continue to

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
TUESDAY, JULY 22, 2003
Page 5 of 11

come up. Scott Chambers has been working with the Fire Department, and he is up to speed on rules regarding Miranda rights and search warrants and has provided valuable assistance. At this time, Larimer County is assisting with polygraph testing, but they are willing to provide further assistance if needed.

Trustee Buckingham asked if the items can be tested to identify the individuals involved. Chief Charles noted the items are being tested to determine what flammable liquids were used, and then it is possible to go to the sources to determine who may have been purchasing those flammable liquids. Basically, this allows them to look for a source. He noted they did try to lift fingerprints from several areas, but due to the temperature of the fire, none were available.

Mayor Karspeck asked Attorney Fickel where this case would be handled. Attorney Fickel noted this would be a felony charge, which would be handled in District Court. Chief Charles confirmed due to the cost of the damage, this will be a Class IV felony.

Mayor Karspeck noted that while the investigation is going forward, the larger question is what can be done to improve this situation. Greeley has an outreach program to get students involved in government. He suggested the Town needs to look into programs in other Towns in the area to see what is working.

Administrator White agreed and noted he and Ms. Schueler are discussing programs in the area. Ms. Schueler thanked Mayor Karspeck for his suggestion, and noted a meeting is being scheduled for Administrator White and the principals of the schools to discuss ideas. She noted the City of Loveland pays for a School Resource Officer, which puts an officer in the schools to develop a relationship with the students. They are there, observing and talking with the students. She noted this has been helpful in vandalism cases in the Loveland schools. There are kids in every community who do not want this type of activity in their schools. She pointed out that this may not be realistic in a town as small as Berthoud; however, they are looking into grant opportunities to see if there are funds for this type program.

Chief Charles noted Crime Stoppers is offering a reward to anyone for information that leads to the arrest of the person responsible for the fire. Crime Stoppers is recognized nationally and funded through the County and the District Attorney's office. The Berthoud Fire Department put together the news release that announced the reward, using the Crime Stopper logo. The Berthoud, Loveland and Longmont newspapers put the ad in at no charge, and the plan is to run it again next week. He noted any public service agency can put these ads in the paper, and when someone is arrested, fees are collected that go toward those funds.

Mayor Karspeck noted there was a tremendous amount of community involvement in the building of the fields and stands, with a large amount of community pride. This is an attack on the community as a whole. He thanked everyone for their input and attendance.

FORMALIZE APPOINTMENT PROCESS

Administrator White reported this item is in response to a Board request to formalize the process we use to appoint members to Boards and Commissions. He presented the draft for Commission, Board and Committee Appointment Procedures.

Trustee Buckingham felt the suggestions were appropriate for the majority of our Committees and Boards. However, he felt we might want to have three Trustees serve as the interview committee for the Planning and Zoning Commission. We could then have a representative from the Staff and the Planning Commission to serve in a non-voting role.

Trustee Patrick agreed and felt the Planning and Zoning Commission should have three trustees serve as the voting members of the Interview Committee, and the staff liaison and the Commissioner should serve as advisory members. This would allow significant Board input into the process.

Mayor Karspeck asked if it would have an adverse effect to have five voting members, and allow the staff member and the Commissioner to vote. Trustee Patrick felt there might be a conflict if the Commissioner votes. He noted the Board is responsible to make the decision, and it could cause problems if the staff person or Commissioner vote against an individual and then have to work with that person. If they serve in an advisory capacity, they would have the capability to have input.

Mayor Pro-Tem Foote disagreed, noting when she participated on the interview committee last year, it was important to have the Commissioner and staff person involved in the process since they attend all the meetings. These individuals were looking for other characteristics, and raised several issues that were vital to the process. She also felt increasing the number of members to five would bog down the process. Ultimately, the purpose of the Committee is to narrow down the number of individuals recommended. She suggested the current Chairman, one staff member and one Board member would be a more effective Committee, since these individuals would have more insight into the Committees.

Trustee Buckingham agreed that on the majority of the Boards and Commissions, this structure would be effective. However, if you have a Commission that is split, having one Commissioner on the Interview Committee could create a conflict among the members. In a healthy functioning commission the Chairman would be the right person to serve on the Interview Committee.

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
TUESDAY, JULY 22, 2003
Page 7 of 11

Mayor Karspeck noted this is just a nomination process, and is not the final decision making process. Any member of any Committee or Board could address their concerns with the Board liaison and have those issues considered as a part of the process.

Trustee Patrick felt it is a good idea to formalize this process, but at the same time, we want to make sure whatever rules we adopt are beneficial. While the Commissioner and the staff person should have input, the final decision belongs to the Board. If we are going to put this into formal process, we need to make sure we get recommendations from enough members of the Board to allow the appointments to proceed.

Mayor Pro-Tem Foote noted the process is simpler with one trustee involved. If we have three trustees involved in the process, the interviews must be public. If we have one trustee, a staff member and a committee member, they are making a recommendation to the Board of Trustees.

Attorney Fickel noted if three trustees are involved in the process it is a public meeting and must be publicized.

Mayor Karspeck noted on some of our Committees and Boards, we would have a problem getting three trustees to participate.

Mayor Karspeck noted Trustee Ashcraft has been in favor of formalizing this process and he suggested we postpone making a final decision until he is in attendance. Administrator White noted we would still have time to complete this process if this item was tabled until the first meeting in August.

Trustee Buckingham noted he could support these recommendations for all Boards and Commissions, except the Planning and Zoning Commission. Trustee Patrick agreed.

Mayor Karspeck noted there are three members absent, and felt this should be considered by a full Board. Trustee Patrick felt that any action taken this evening could be reviewed by the members that are absent, and could be subject to further discussion if any other members are not agreeable to the change.

Mayor Karspeck suggested adding one further item that would state that a letter is sent to the appointee and that letter will specify the term of the appointment.

Trustee Buckingham moved to accept the staff recommendation for the composition of the interview committees for the purpose of nominating applicants for the Commissions and Boards for the Town of Berthoud with the addition of item #8, which states that the Town will provide a letter to the candidate selected which contains the term of the appointment, and modifying the composition of the interview committee for the Planning and Zoning Commission, to have the voting

membership made up of three trustees, with a member of staff and one commissioner to serve in an advisory capacity. Second by Trustee Patrick. All members voted YES.

Mayor Karspeck asked how this regulation will be put in place. Town Clerk Cowdin noted this will be an administrative regulation, and will be included in all Committee and Board folders.

APPOINT INTERVIEW COMMITTEES

Mayor Karspeck suggested membership for the Board and Committee interview committees, as follows:

The Parks and Open Space Committee has two openings and three applicants. Trustee Gregg is liaison to this Committee, Norma Banzhaf is the current chairman, and Brian Saya is the staff representative.

The Historic Preservation Commission has one opening and two applicants. Trustee Buckingham is liaison to this Committee, Liz Kearney is the current chairman, and Tom Vaughan is the staff representative.

The Tree Board has 3-5 openings and three applicants. Mayor Karspeck is liaison to this Committee, John Goresky is the Chairman, and Shiloh Hatcher is the staff representative.

It was noted that John Goresky is one of the members of the Tree Board whose term is expiring, and it would be inappropriate for him to interview himself. Following discussion, it was decided that the vice chairman, the secretary or the most senior member of the committee whose term is not expiring will be asked to serve on the interview committee if the Chairman's term is expiring.

Mayor Karspeck noted the two members left on the Tree Board are Duane Pond and Herb Meeker. Duane Pond has served on the Committee the longest, and will serve on the Committee.

Mayor Karspeck asked the status of the Utility Advisory Board. Town Clerk Cowdin noted this Committee has been put on hold until it is needed.

Mayor Karspeck noted no openings are shown for the Library Board. Town Clerk Cowdin noted Library Board appointments are for a calendar year, and none are open at this time.

Mayor Karspeck noted the Planning and Zoning Commission has two openings and has received one application. Trustees Don Ashcraft, David Gregg and Michael Patrick serve

as the liaisons to the Commission and will serve as voting members of the Interview Committee. Chris Thorne will serve as the Planning and Zoning Commission advisory representative, and Wayne Reed will be the staff advisory representative.

Mayor Karspeck moved to appoint the following interview committees:

Parks and Open Space: Trustee David Gregg, Chairman Norma Banzhaf, and staff representative Brian Saya; Historic Preservation Commission: Trustee Glen Buckingham, Chairman Liz Kearney and staff representative Tom Vaughan; Tree Board: Mayor Milan Karspeck, Board member Duane Pond and staff representative Shiloh Hatcher. For the Planning and Zoning Commission, the Board appoints Trustees Don Ashcraft, David Gregg and Michael Patrick as voting members and Commissioner Chris Thorne and staff member Wayne Reed as advisory members of the Interview Committee. Second by Mayor Pro-Tem Foote. All members voted YES.

Mayor Karspeck noted interviews must be completed and recommendations made by the August 26, 2003 Board meeting. Town Clerk Cowdin will contact the members of the committee and the applicants to schedule the interviews. Board members will receive information regarding the recommendations in their packets prior to the Board meeting.

EMPLOYEE HEALTH BENEFITS

Administrator White reported an employee meeting is scheduled for tomorrow, July 23, 2003, to discuss this year's health benefits. We were initially told to anticipate a 20% increase. The renewal came in with an 8.5% increase. To offset a part of this increase, we are looking at increasing the employee contribution. Administrator White explained that the proposed increase will be \$25.00 per month for employees who have coverage for their spouse or dependents, and \$50 per month for employees who have family coverage.

Trustee Patrick asked if we have been assured by our agent that we are getting the best available coverages and costs. We are paying a significant amount for this coverage.

Trustee Buckingham asked if we have investigated the HMO's in the area. He noted his company allows the employees to choose between plans based on the cost of services. This allows employees to opt for less coverage at a lower cost if they are younger and healthier.

Mayor Pro-Tem Foote asked why the Town pays more of the cost for family or dependent/spouse coverage, instead of requiring the employees to pay the additional cost over the single rate. Trustee Patrick noted this has been discussed recently and one concern is that this would create a significant impact on these employee's salaries.

Trustee Buckingham asked if it is possible to look at other employers in the area and pool our resources to get more competitive coverage. Deputy Clerk Reed responded that CIRSA has done extensive research on the possibility of allowing smaller municipalities to participate in pool health coverage. One problem they have found is that they are unable to charge lower rates than carriers that are currently providing this coverage.

Administrator White noted we did an extensive search last year and will explore more options next year. Health insurance is a vital tool to retain employees. Our policy term is August 1, 2003 through July 31, 2004.

Trustee Buckingham moved to increase the employee contribution portion of the health insurance coverage to \$100 per month for spouse or dependent coverage and \$150 per month for family coverage. Second by Trustee Patrick. All members voted YES.

**UPDATE REGARDING AMENDMENT OF ORDINANCES
AND RESOLUTIONS IMPACTED BY MAY 2003 ELECTION**

Attorney Fickel noted a memo was distributed in the packets. Many of the changes to amendments and plans will occur as a direct result of the McWhinney/Wilson annexation. He noted this annexation is proceeding on course, and one of the primary issues that will be addressed involves the residential permit allocation.

Attorney Fickel noted that one issue that may need to be addressed is the level of activity for the Planning Department. We have been contracting some of the work load out to TEC in Fort Collins, and our developers are paying for this service at a rate of as much as \$100 per hour. We have been looking at other alternatives due to this cost, and have determined it may be cheaper for the developers and better for the Town if we hire a staff person in house, and reduce the amount of work we are sending out. The Planning staff is tracking their time to determine how much would be billable, and we are talking to the developers to see if they would be interested in contributing to the cost of a staff person. So far, they have indicated they would prefer to pay staff time, if that would reduce the amount they are paying for outsourcing. Once this initial review is completed, this request will be presented to the Board.

Attorney Fickel noted one document that is being reviewed is the State of Colorado Model Land Use Plan. This is a significant document, but would require review and modification before it is ready to adopt. Planner Wayne Reed and Building Official Patrick Buckley are currently reviewing this document, comparing it with our comprehensive plan and determining what modifications need to be made to the plans. This process is ongoing at this time, and any Board members are welcome to participate.

Mayor Karspeck confirmed that no action is necessary at this time. Attorney Fickel agreed, but noted staff is willing to take whatever action the Board deems necessary.

Trustee Buckingham expressed concern regarding a proposed change to item 30-6-110 of the Town of Berthoud Development Code. He asked that all language after item #4 be stricken.

Attorney Fickel explained the purpose of this wording, but noted if there is confusion, it should be revised. He suggested a revised version be forwarded to the Board.

Trustee Patrick noted the Board already has the ability to allow a small development to complete their project in a year. He expressed concern that this would allow a larger development to come in and ask to be exempted from phased development. If the Board is going to allow an exemption for a larger development, we need to determine what we feel would be defined as substantial community benefits. He noted this would not be a problem for our current Board, but we are unable to control future Boards.

Attorney Fickel noted it says the Board may exempt a development if they are offering substantial community benefits. It is up to the Board to determine if what is being offered qualifies as a substantial benefit.

Trustee Patrick suggested the paragraph beginning with "The Board of Trustees may exempt...", and item #1 which follows that paragraph be removed. Item #2, which begins "Developments offering substantial community benefits..." will be renumbered item #5, and will remain a part of the revision.

EXECUTIVE SESSION

Mayor Karspeck noted the Board of Trustees needs to adjourn to an Executive Session for negotiations for Wilson Ranch and to discuss water purchase negotiations. With no objection and by unanimous acclamation, the Board adjourned to an executive session at 9:30.

Board members reconvened at 10:40 and with no further business, adjourned.

Mayor Milan Karspeck

Deputy Town Clerk Charlene Reed