

TOWN OF BERTHOUD  
BOARD OF TRUSTEES  
REGULAR MEETING  
TUESDAY, JULY 8, 2003  
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The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, July 8, 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  
Trustee Don Ashcraft  
Trustee Glen Buckingham  
Trustee David Gregg  
Trustee Michael Patrick  
Trustee Peder Thorstensen

MEMBERS ABSENT: Mayor Pro-Tem Jenny Foote

STAFF PRESENT: Town Administrator Jim White  
Town Clerk Mary Cowdin  
Public Works Director Bill George  
Planner Wayne Reed  
Attorney Bruce Fickel  
Deputy Town Clerk Charlene Reed

**PLEDGE OF ALLEGIANCE**

Mayor Karspeck led the pledge of allegiance.

**CITIZEN PARTICIPATION**

Joe Olson of 1021 Arapahoe Avenue addressed the Board. He noted Bein Park was previously used for recreational activities for the residents in the area, and up until a month ago, there was gate access into the park.

**Trustee Thorstensen arrived at 7:34 p.m.**

Mr. Olson noted at that time, Town staff eliminated the gate to solve a variety of problems, including parking on 10<sup>th</sup>. His opinion is that the real reason access was eliminated was because people were taking their dogs onto the field and not picking up waste. Now that people are unable to reach Bein Park, they are using the soccer fields for the same purpose.

Mr. Olson noted with the gate gone, the neighborhood is restricted from using the area, since there is no reasonable access to the track and the tennis courts. Removing the gate eliminated the shortest path for children walking to Ivy Stockwell Elementary, and kids are climbing the fence, people are forced to go through the sprinklers to reach little league practice, and neighborhood residents cannot get to the field to watch games.

Mr. Olson noted there are bigger issues that need to be considered, including litter, vandalism, and lack of maintenance. The drinking fountains in the park have not worked for two years. High school kids congregate in the area and don't use the trash cans. In the unfenced portion, there is a dispenser for doggie waste bags, and the dispenser has been empty for two years.

Mr. Olson asked the Board to direct staff to reinstall the gate. Berthoud's Best Park Development Practices state that parks should be very accessible for all ages and abilities. Before the gate was removed, that was the case, and now it is not. He thanked the Board for their assistance in resolving this problem.

Administrator White noted this issue has been discussed with Brian Saya, the Parks and Recreation Director, and according to Mr. Saya, this gate provided access to the outfield areas, and not to park areas. Administrator White noted the plan is for Mr. Saya to have a neighborhood meeting to discuss this issue and once that meeting is held, this issue will be brought back to the Board.

David Latsch of 704 Welch noted he continues to be concerned with the incidents coming from Berthoud Park. Littering is ongoing, and is comprised of alcohol bottles and beer cans. This situation continues to deteriorate. He noted we still have speeders at 7<sup>th</sup> and Welch and we need to address this problem before someone runs over a pedestrian.

### **REPORTS**

Mayor Karspeck advised the Board that there is an issue regarding the composition of Planning and Zoning Commission. At the present time, we have one rural representative on the commission. We began advertising for the position because according to Town records, this term ends August 1, 2003. Mayor Karspeck noted this issue was discussed during the meetings of June 13, 2000 and June 27, 2000, and two rural representative positions were eliminated. At that time, the current representative had been in place for a year, but it was her understanding that at the meeting on June 13, 2000, she was reappointed, and if that is the case, her current term would last until 2004.

Trustee Ashcraft noted his intent at the time was to eliminate the other two positions, and only retain one rural representative. There should not have been a change in term of the existing representative as a result of that action. He suggested the current representative should reapply.

Trustee Patrick suggested if the minutes are not clear and this individual understood they had a four year term beginning in 2000, we should allow the term to be extended to 2004. He noted the Planning and Zoning Commission has been operating competently for the

last year, and with the growth cap changes that have occurred and our efforts to improve our planning tools, it would be beneficial to maintain continuity.

Mayor Karspeck noted these appointments have already been advertised. He noted it is important to make sure terms are clearly indicated in the meetings and in the minutes.

Trustee Ashcraft suggested we need a more formalized procedure, with specific guidelines, for the interview process for all Board Committees. Administrator White noted that staff has already been working on a protocol and will bring forward a draft at a future meeting.

**Trustee Buckingham moved to accept Mayor Karspeck's recommendation to allow the current rural representative on the Planning and Zoning Commission to continue to serve until 2004. Second by Trustee Thorstensen. Mayor Karspeck and Trustees Buckingham, Patrick and Thorstensen voted YES. Trustees Ashcraft and Gregg voted NO. The motion carried.**

#### **TIMING OF PAYMENT OF IMPACT FEES**

Mayor Karspeck opened the public hearing regarding the timing of payment of impact fees. Planner Reed noted this issue has been reviewed by the Board and he presented an ordinance that includes all Board recommendations.

Mayor Karspeck read the changes for the payment of impact fees. He opened the floor for public comment. There were no comments from the audience and the item was returned to the Board.

**Trustee Ashcraft moved to approve Ordinance 968, an ordinance amending the development code of the Town of Berthoud, as it pertains to the timing of impact fees. Second by Trustee Gregg.**

Trustee Patrick asked when the Raw Water Dedication fee is paid. Planner Reed noted this fee can be paid at the time the permit is purchased, or the purchaser can wait up to 180 days or at the time the certificate of occupancy is issued, whichever comes first. The language was amended to state that the fee that is paid is the fee that is in place at the time it is paid. Trustee Patrick suggested we need to insert language that states "but in no event prior to application for the building permit." Planner Reed noted it is not possible to pay fees prior to purchasing a building permit at this time. Trustee Patrick disagreed, noting that the last sentence in paragraph B of this ordinance indicates that "the owner/builder has the option to pay any fees prior to the date this Ordinance requires that they be paid."

**Trustee Ashcraft amended his motion to include the statement recommended by Trustee Patrick. Second by Trustee Buckingham. Board members voted on both the motion and the amendment, and all members voted YES.**

**RESOLUTION REGARDING 1997 UNIFORM FIRE CODE**

Steve Charles, the Fire Chief of the Berthoud Fire Protection District, addressed the Board regarding the adoption of the 1997 Uniform Fire Code. He presented specific information regarding the fees under the fee schedule. He noted that in order for the Fire District to apply the 1997 Uniform Fire Code in the Town of Berthoud, it must be adopted by the Town, and requested approval for this resolution.

Mayor Karspeck asked if there are major issues with this change. Fire Chief Charles indicated that one issue being addressed involves fire flow. This change will allow the Fire District to make arrangements to have adequate water in the ground to protect the residents and their properties. In the long term, this would allow us to utilize Little Thompson Water to fight fires in Berthoud. He noted the Fire District continues to work to improve the equipment they have available to meet the needs of the Town, and at the same time, our fees are lower than anywhere in the Front Range.

Board members discussed the fee schedule and how it is applied. Administrator White noted the staff recommends approval by the Board.

Mayor Karspack summarized the proposed resolution.

**Trustee Buckingham moved to adopt resolution 12-03, granting the Berthoud Fire Protection District authority to operate within the Town of Berthoud and to enforce the 1997 Uniform Fire Code as amended and to use the Berthoud Fire Protection District Fire Board of Appeals as the Town of Berthoud Fire Board of Appeals. Second by Trustee Ashcraft. All members voted YES.**

**INTERGOVERNMENTAL AGREEMENT – BERTHOUD FIRE PROTECTION DISTRICT**

Josh Brown of the Berthoud Fire Protection District addressed the Board regarding the specific changes in the proposed IGA. Under item 6.1, the third sentence states “Accordingly, Town hereby contracts District as the exclusive provider of fire protection and related services within the Town’s boundaries which presently lie with District’s boundaries.” This previously stated that the Town designates the District. Section 6.5 is a new paragraph, which states “District, being responsible for the mitigation of emergencies within the town limits, will operate in accordance with recognized national standards to mitigate said emergencies as deemed necessary.” He explained that this

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wording was recommended by the ISO to give the Fire District the latitude to solve problems as needed.

Chief Charles noted in working with the ISO, we are attempting to gain as many points as possible in the categories of water, communication and fire. The ISO felt that by inserting the word “contract” in place of “designate”, this gives the Fire District the latitude to obtain the necessary water, whether it is Berthoud water or Little Thompson water. Both of these changes were recommended by their consultants and their ISO representatives.

Trustee Ashcraft expressed concern that item 6.5 does not acknowledge that there are other agencies involved in emergency situations, and in many cases the other agencies are in charge of those situations. Attorney Fickel noted since Berthoud is a small community, this wording provides a broad definition to allow the Fire Department to respond to situations as needed. He noted this is a mutually beneficial agreement, which does not affect the responsibilities of other entities in the area.

Chief Charles noted ISO has required them to identify the 25 largest buildings within the Town boundaries. Our current water supply is not adequate to meet the required fire flow for Berthoud. The intent of 6.5 is to give them the ability to use Little Thompson Water, in addition to Berthoud water. He noted in the past and during the most recent hostage situation, the Fire Department is actively involved in responding to emergencies in Berthoud to provide assistance as needed, in whatever capacity needed.

Trustee Buckingham agreed, but noted the Fire District does not have the exclusive franchise on handling emergencies within the Town. Chief Charles agreed, and noted the Town Administrator is the Emergency Response Coordinator for the Town and is in charge of all operations. He noted as the Town of Berthoud annexes outside of the areas currently served by the Berthoud Fire Protection District, they want the ability to extend their areas also. They want to be the sole provider for the Town of Berthoud.

Trustee Ashcraft noted that with the clarification provided, he is comfortable with the wording as presented.

Chief Charles noted there are specific situations where the Fire Department, the Police Department or other agencies provide first response. As an example, the Fire Department is the first response agency for HazMat incidents. When they are contacted in this situation, they immediately contact the Larimer County HazMat to respond. Every entity has a specific purpose and 6.5 deals with fire protection only.

Attorney Fickel noted an Intergovernmental Agreement is a contract, even without money passing between the two parties.

Mayor Karspeck felt this wording is acceptable, since we are responding to a recommendation from ISO. He noted this agreement has a term, and any concerns can be addressed as needed.

Trustee Patrick suggested the heading for Item #6 be changed to state “contracted Fire Department,” and commended the Fire Department for their efforts above and beyond the call of duty.

Administrator White noted in a Town the size of Berthoud, we are reliant on each other in emergency circumstances. We are fortunate that we do not have many emergency situations, but in the recent hostage situation, the Fire Department had available personnel and the expertise to assist in the situation. They provided significant support and assistance.

**Trustee Gregg moved to adopt the proposed IGA between the Town of Berthoud and the Berthoud Fire Protection District with the change in the heading of Section 6 to read Contracted Fire Department. Second by Trustee Ashcraft. All members voted YES.**

#### CONSENT AGENDA

The Consent Agenda consists of 6a., the minutes from the regular meeting of June 24, 2003, and 6b., the bills allowed for June 2003.

**Trustee Buckingham moved to approve the consent agenda as presented. Second by Trustee Thorstensen. Mayor Karspeck and Trustees Thorstensen, Ashcraft and Buckingham voted YES. Trustee Patrick abstained.**

#### WASTEWATER TREATMENT PLANT EMERGENCY REPAIR

Public Works Director George presented cost estimates for the emergency repair of the digester at the wastewater treatment plant, explaining that this is a repeat of a problem that occurred in August 2001. At that time, and due to an unstable platform which allowed to top of the motor and gear box to shake, the shaft sheared in the digester mixer and a new shaft was installed under warranty. In May, 2003, this problem recurred, and if we do not take action immediately, there is the potential for the shaft to shear again. We hired TEC to design a solution to the problem, and asked Glacier to give us price for the repair, since they are already working on the plant. The total price for the repair is estimated at \$46,777. Public Works Director George noted we are asking the Board to approve funds for the emergency repairs and we will utilize funds from the wastewater reserve fund. That fund currently has approximately \$100,000, and can be used in emergency situations.

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Trustee Buckingham asked if this is fundamental design problem in this facility. Public Works Director George noted the original design did not provide enough support, which allowed this situation to recur. There were recommendations made by the shaft supplier when this failed in 2001, and they may not have been closely enough examined. Our goal at this time is to provide a long term solution to this problem.

Trustee Patrick asked why we did not look into a long term resolution to this problem when it occurred the first time. Public Works Director George noted the first attempt to resolve this problem did not provide adequate support. We are planning to add steel I-beams to make the shaft rigid. This steel structure will be bolted into the concrete and should resolve the problem.

Board members asked how much longer this digester will be in use, and P.W.D. George clarified that this is the digester that will be used in the new wastewater treatment plant.

Trustee Patrick noted since this is a recurring problem that can be linked to the initial design, this issue needs to be discussed with McLaughlin Engineering. Even with the additional \$50,000 we are putting into this repair, we may be faced with future repairs. He noted if we do not discuss this with McLaughlin Engineering at this time, and the situation recurs, there could be questions regarding whether subsequent problems are caused by the original installation or this modification.

Trustee Buckingham suggested we also need to make a liability statement back to the designer regarding this problem and advise them we continue to have problems. Trustee Ashcraft noted this equipment may not have been installed to the manufacturer's specifications.

Rick Piccard from TEC addressed the Board. He noted when the manufacturer was given the original design guidelines, they did not agree with the engineer. At that time, their structural engineer proposed solutions to prevent problems with this equipment. He noted the repair that is currently being planned has been completed successfully at a plant in Nebraska. He noted the supplier has also given his support to this repair.

Trustee Patrick clarified that if you go back to the original buildout, this structure was built as designed, and at that time the suppliers advised the engineer that the design was inadequate. Mr. Piccard agreed and noted that when the repairs were made the first time, the distributor stood behind their warranty on the shaft, but they did not feel those repairs would be adequate.

**Trustee Ashcraft moved to approve the digester repair, at a cost not to exceed \$46,777. He also moved to direct staff to research this problem to determine recovery possibilities. Second by Trustee Patrick. All members voted YES.**

**CHANGE ORDER No 1 WWTP**

Public Works Director George noted at the Board meeting on June 17, 2003, the Board approved the amendment to add the second mgd train to the wastewater treatment plant. He presented a copy of the change order, requesting a board motion to allow the Town Administrator to execute this document.

**Trustee Buckingham moved to accept staff recommendation to allow the Town Administrator to execute change order #1 for the wastewater treatment plant. Second by Trustee Gregg.**

Administrator White clarified that the amount of the change order is \$1,684,166. However, we are requesting Board authorization to increase our loan by \$2,161,000. He noted Mike Brod of the Colorado Water Resources Development and Power Authority is present to address any financial issues or questions.

Trustee Buckingham asked the reason for the additional funds. Administrator White noted the cost for the change order is \$1,684,166. The original contract bid price was higher than the engineer's estimate used to secure the existing loan, and the Town has elected to finance this additional cost as well as the cost of a new water tap. Administrator White also noted he would recommend that the Board consider including a contribution to a regional wastewater facility at I-25. If that is included, he noted it would take the total requested to \$2.4M, which falls within the amount allowed under our general obligation bond.

Mr. Brod noted the interest rate for our original loan of \$6.325M was 3.85% . At their next meeting in August, they will consider the Town of Berthoud's application, for either \$2.2M or \$2.4M. Our original ballot question allowed up to \$10M. They will be reviewing the Town's most recent audit, and he does not anticipate any problems with the loan. Once the loan is approved, they will issue bonds, and should have funding in place by October. He suggested interim financing to keep the project moving while this process is completed. At the current interest rates, we anticipate an interest rate of 3.25% for the new loan.

Trustee Buckingham asked if the additional \$200,000 for a regional wastewater facility was included in this year's budget. Administrator White noted this was not a part of this year's budget, but should be included when we begin the 2004 budget as the regional treatment plant would not be built any earlier than 2004.

Mr. Brod suggested the Town ask for the maximum amount available under the initial ballot question. That will give us some flexibility until we reach the point where the bonds are issued.

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Administrator White asked how the 4% interim loan would work. Mr. Brode noted the loan is put in place, and if we do not need the funds, there is no cost to the Town. If interim funds are used the amount is calculated and the loan is paid off when the new loan is finalized.

Administrator White noted the two issues should be considered separately, with one motion to approve the change order, and the second motion to pursue the loan for the full amount recommended.

Mr. Brod pointed out the Town borrowed water funds in 1994 and there is \$225,000 available from that loan. It is possible those funds can be used for the wastewater repairs. Trustee Ashcraft expressed concern that the funds borrowed in 1994 were for water, and we would be using them to repair the wastewater plant. Attorney Fickel noted we may be able to allow the wastewater system to assume responsibility for the \$225,000, since we are paying interest on those funds.

Board members discussed the possibility of refinancing the 1994 loan at better interest rates.

Mayor Karspeck noted Governor Owens is endorsing an issue for building dams, and asked if this is modeled on the program developed by the Colorado Water Resources Development and Power Authority. Mr. Brod noted they are neutral on that, but it is similar to what they are doing. He described some of their more recent changes in funding which allows CWRWPA to pay the costs for issuing bonds.

**Trustee Buckingham restated his motion to approve the staff recommendation to allow the Town Administrator to execute change order #1. Second by Trustee Ashcraft. All members voted YES.**

**Trustee Buckingham moved to adopt the recommendation from the Town Administrator to include an additional \$240,000 for the regional wastewater facility at I-25.**

Trustee Buckingham noted the motion for additional funds for that facility should stand alone, but since we are asking for \$240,000, rather than \$200,000 for this facility, the additional \$39,000 can serve as a cushion for the other loan.

Trustee Gregg asked if it is appropriate to direct staff to look at using the additional funds from the 1994 loan in this motion.

Trustee Patrick suggested we need to determine how those funds can be used, and make a decision based on that information.

**Trustee Buckingham withdrew his original motion and moved to approve \$240,000 funding for a regional wastewater facility with the appropriate source of the funds to be determined by the Town Administrator and staff.**

Administrator White noted he would like to see the two issues separate. Trustee Buckingham noted his motion gives Administrator White the leverage to make a decision based on the information we receive. Administrator White agreed, but noted we need to apply for wastewater funding as quickly as possible.

Attorney Fickel expressed concern that in the bond documents for our 1994 loan, we stated the funds would be spent for water. Mr. Brod noted that should not be a problem.

Trustee Buckingham noted this is a good opportunity to review the information and come to a decision that is in the best interest of the Town.

Attorney Fickel also stated it would be better to keep the funds separate. Administrator White noted we will have a need to look at changes in our water plant, and those funds may be useful with other water issues.

**Second by Trustee Karspeck. All members voted YES.**

#### **TEMPORARY LIQUOR LICENSE FOR PIZZA HUT**

Town Clerk Cowdin noted Pizza Hut has been for sale, and the potential new owners are requesting a temporary license for 180 days to allow them to continue serving alcohol during the time that this Board and the State review their application.

**Trustee Gregg moved to authorize a temporary 3.2% beer retail on premises license for Pizza Hut, located at 821 Mountain Avenue. Second by Trustee Buckingham. Mayor Karspeck and Trustees Ashcraft, Thorstensen, Gregg and Buckingham voted YES. Trustee Patrick abstained.**

#### **REPORTS**

Administrator White reported the Town has chosen Front Range Electronics to hard wire our computer system. This will resolve concern regarding security.

Administrator White noted we are in the process of refining the curbs and contours of the BMX Track.

Administrator White noted there is no Board meeting scheduled for next week. Board members expressed appreciation for the night off.

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Trustee Buckingham asked the status on the appointment for the member of the Historic Preservation Committee whose term is expiring in August. Town Clerk Cowdin noted we are in the process of advertising for applications for all the Committee openings, and our deadline for application is July 21, 2003. She noted this committee member has been sent a letter advising her she needs to reapply and we have not heard from her.

Trustee Patrick noted the Board members received a letter regarding our utility billing procedures, and a copy of that letter will be provided to Administrator White for a response.

Administrator White commended Mayor Karspeck for his efforts to make it possible for us to use Welch Lateral contract water to irrigate our ball fields at Bein Park this year at no cost to the Town. He noted Brian Saya, and his staff, have been working to resolve problems with the irrigation system, and he commended them for their efforts. He also commended Ed Simpson for his assistance with this project.

Trustee Ashcraft noted this is the first non-potable system of any size in Berthoud, and suggested we put up signs that indicate the water being used is non-treated, a.k.a. non-potable. Administrator White agreed to secure signage.

Trustee Patrick commended Mayor Karspeck and suggested this needs to be publicized. The residents need to understand that we are now using additional irrigation water we own, but that we have not been able to use in the past. He suggested we provide a press release to the Berthoud Recorder and the Loveland paper. Administrator White noted this information was given to the Berthoud Recorder in an interview this week.

Trustee Patrick suggested we also do a press release for the pipeline. The pipeline has made a tremendous difference in the amount of water we have available, but this is not common knowledge. He noted many of our residents do not have a clear understanding of our water resources.

Mayor Karspeck noted another issue we have addressed involved finding a way to store our direct flow water. Based on the efforts of Town Staff and our water attorney, we are now able to store this water in the Welch Reservoir until it is needed this winter.

With no further business, the meeting adjourned at 9:44.

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Mayor Milan Karspeck

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Deputy Town Clerk Charlene Reed