

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
JUNE 24, 2003
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The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, June 24, 2003, in the Board Room of Town Hall. Mayor Karspeck called the meeting to order at 7:35 p.m.

MEMBERS PRESENT: Mayor Milan Karspeck
Mayor Pro-Tem Jenny Foote
Trustee Michael Patrick
Trustee Peder Thorstensen

MEMBERS ABSENT: Trustee Don Ashcraft
Trustee Glen Buckingham
Trustee David Gregg

STAFF PRESENT: Town Administrator Jim White
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

Pete Cowdin of 605 7th Street addressed the Board, proposing that the new wastewater plant be named in honor of Tom Jones. Mayor Karspeck felt this is a good suggestion, but noted we do not have a procedure in place to name facilities after individuals. This was brought to our attention when we changed the name of County Road 10 to Water Avenue. He asked staff to determine how this is being done by other cities and towns in the area. Mr. Cowdin thanked the Board for their consideration.

David Latsch of 704 Welch Avenue addressed the Board regarding the problem with littering, noise and speeding around Berthoud Park. He noted there are cars with loud stereo systems driving in the area at all hours, and many of these vehicles do not stop at the stop sign at 7th and Welch. There are groups of people parking at the park, and littering is a problem. He asked that the Board consider an ordinance that would address all of these problems, as it has been ongoing for several years and continues to get worse.

Lisa Rennert of 322 S 8th Street addressed the Board confirming Mr. Latsch's comments. She noted the vehicles involved are drag racing up and down the street, have loud mufflers, and play their stereos very loud. She asked why the Town does not have a noise ordinance. Mayor Karspeck noted the Town does have ordinances in place that

would address some of these problems. Ms. Rennert disagreed, noting she was told by an officer from Larimer County that Berthoud does not have a noise ordinance. Mayor Karspeck suggested these problems need to be brought to the attention of the Police Department. Ms. Rennert also noted there is graffiti on the sidewalk next to Ivy Stockwell Elementary, where children walk to the pool and asked that this be removed.

Mayor Karspeck asked staff to provide information regarding what ordinances we have in place, and determine whether we have staff available to enforce these ordinances. Attorney Fickel noted a noise ordinance was considered several years ago, but we do not have the equipment available to measure decibels. That is necessary to enforce a noise ordinance. The Town does have a requirement in place that says that people cannot have noise on their property that can be heard by their neighbors. He noted we also have littering ordinances and curfew ordinances in place, which are enforced. He recommended the residents contact the Police Department with problems of this type.

Ms. Rennert asked if she can sign a complaint and take the individuals to court when problems like this are ongoing. Attorney Fickel noted any citizen has the right to file a complaint and this is done by filing a statement with the Police Department. He noted the complaints are taken seriously by the Police Department and by the Court.

Trustee Patrick noted enforcing a traffic violation is easier than noise enforcement unless a measuring device can be used. There are guidelines for public nuisances and noise off property, but those may be subjective standards. Unless we are able to measure the level of noise, there may not be a way to enforce these ordinances. He noted Mr. Latsch stated that train whistles are too loud. The Town does not have any control over train whistles. He noted without measuring equipment, complaints regarding noise are subjective.

Administrator White noted that following receipt of the letter from Mr. Latsch and the phone call from Ms. Rennert, this information was forwarded to the Chief of Police. He will be investigating our options to address these complaints.

REPORTS

Administrator White reported that he has been advised by BAHA that our second sculpture on loan, "The Potato Man" by Susan Geissler, is scheduled to arrive next week. This sculpture will be unveiled at 5:00 p.m. on Wednesday, July 2, 2003 at Fickel Park and will remain in Berthoud for one year.

Administrator White noted he attended the CML Conference in Pueblo last week, and will provide a report to the Board of items of interest that were discussed.

Attorney Fickel reported that a brief was filed regarding the Wilson Annexation. Despite the fact that we are working to resolve this issue without further court action, the Court

will dismiss the case unless briefs are filed. He noted all parties are in agreement that this time would be better spent working on the annexation, but we have no control over the Court of Appeals and must continue to provide them with information as required.

CONSENT AGENDA

The consent agenda consisted of 6a., the minutes from the regular meeting on June 10, 2003 and the special meeting held on June 17, 2003; 6b., the financial statement for May 2003; and 6c., the liquor license renewal for Wayside Inn. Mayor Pro-Tem Foote noted she was absent from the meeting on June 10, 2003. Trustee Thorstensen noted he was absent from the meeting on June 17, 2003. Mayor Karspeck noted there were minor revisions provided for the minutes from June 17, 2003.

Mayor Pro-Tem Foote moved to approve the consent agenda as presented and with the revisions to the minutes of June 17, 2003. Second by Trustee Thorstensen. All members voted YES.

RESOLUTION RE: 1997 UNIFORM FIRE CODE

Mayor Karspeck noted we received a copy of a memorandum from Deputy Fire Marshall Lee Scottt, and a proposed resolution from Town Attorney Fickel, which grants the Berthoud Fire Protection District authority to enforce the 1997 Uniform Fire Code™. He questioned the impact this would have on the Town. Attorney Fickel noted there would be fees involved with this fire code, but the Town has rarely been involved in dealing with the Fire Code in the past, and this will allow the Fire department to take this burden from the Town.

Mayor Karspeck read the four items included in the resolution.

Trustee Patrick suggested it would be helpful to have someone from the Fire Department present to answer questions regarding this resolution prior to approval. Board members tabled this item until the next regular meeting on July 8, 2003. A request will be sent to have someone present from the Fire Department at that meeting.

PUBLIC HEARING – CHANGES TO WATERING RESTRICTIONS

Public Works Director George presented information regarding the proposed changes, which included irrigating by hand at any time, irrigating new sod for 14 days, and amending the hours where watering is restricted to between 10:00 a.m. to 6:00 p.m., rather than the current time between 10:00 a.m. and 8:00 p.m.

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Board members asked Public Works Director George the status of our water supply. He responded that we are approximately 7 inches from a full reservoir. He noted he is in the process of preparing a report on water management for the Board, and that report will include information regarding the options we now have with the pipeline. Our water quality is significantly improved over last year, and requires less chemicals to maintain. The cooler, wetter weather has helped, and hopefully, when the hot weather hits, we will be able to continue to conserve water.

Mayor Pro-Tem Foote asked why we are not lifting the restriction that limits residents to watering two days a week. She felt we should keep the restriction that does not allow watering between 10:00 a.m. and 6:00 p.m., but felt the limit to two days a week should be removed. Public Works Director George agreed we should be able to remove that restriction and still have an adequate supply to take us through the winter.

Mayor Karspeck read the proposed ordinance. He noted this ordinance was to have been passed with an emergency clause, which requires the majority of the Board. There are not enough members present this evening to take this action. Since this is a public hearing, he opened the floor for public comment. There were no comments from the public, so the item was returned to the Board.

Trustee Patrick suggested it would be better to delay action on this item until next week, since if the Board passes this change without the emergency clause, it will be 30 days before it goes into effect. Mayor Karspeck agreed, and asked that we remove the current restriction limiting watering to two days, since it is hard to justify continuing that restriction when we have an adequate supply of water. Public Works Director George agreed.

Trustee Patrick noted we should continue to encourage our residents to conserve water. He noted it is also important that the Public Works Department continue to monitor our water supply. Public Works Director George agreed to continue monitoring our supply and to keep the Board informed of any changes.

Trustee Thorstensen asked if we plan to continue with the higher rates for excessive water usage. Mayor Karspeck noted we will be looking at that item at a future meeting. We are looking at a method to charge what we pay for excessive water usage.

**Trustee Patrick moved to table this item for a special meeting on July 1, 2003.
Second by Mayor Pro-Tem Foote. All members voted YES.**

PUBLIC HEARING – WILSON RANCH ANNEXATION

Planner Reed noted this is a continuation of a public hearing which began on May 27, 2003. He updated the Board on their progress, noting the agreement is approximately 67 pages long, and is still being modified by the Developer and by Town Staff.

Attorney Fickel noted when you have an annexation agreement this extensive, it takes time just to read and understand what is being presented. He noted that everyone is working in good faith and moving this forward as quickly as possible.

Mayor Karspeck opened the floor for public comments.

Molly Sommerville, of Krug and Sobel, LLC 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 noted she will reserve her comments until the annexation agreement is presented, but thanked the Town and Planner Reed for being receptive and responsive to their request for information.

Trustee Patrick moved to continue this public hearing to July 22, 2003. Second by Trustee Thorstensen. All members voted YES.

**SET PUBLIC HEARING – DEVELOPMENT CODE CHANGES
TIMING OF PAYMENT FOR IMPACT FEES**

Planner Reed noted at the study session on June 3, 2003, staff was directed to provide language for one of the alternatives concerning changing the timing of payment for impact fees to move payment from at issuance of building permit to 180 days or certificate of occupancy, whichever occurs first. These revisions were presented. Planner Reed noted one correction to Sec. 30-10-106, Residential Parkland Dedication and Development Fees, Section E, Paragraph 3. The last line of the paragraph should read, “Seven percent (7%) of the total appraised value of the property to be developed for residential purposes divided by the number of dwelling units on the property = the parkland fee for each dwelling unit.”

Trustee Patrick noted under item 30-10-105, Raw Water Contribution Requirements a sentence should be inserted to state that the applicant will pay the current price for water when they pay cash in lieu of. He suggested that a sentence be inserted, as follows, “To the extent that impact fees are not paid at the time the building permit is pulled, the permit holder will pay whatever impact fees are in effect at the time the fees are paid.” Planner Reed agreed and suggested this language be incorporated in Section 30-10-104 to apply to all impact fees.

Mayor Karspeck noted this is a lengthy ordinance, and it is available at Town Hall for review.

Trustee Patrick moved to set the public hearing to consider this change for July 8, 2003. Second by Trustee Thorstensen. All members voted YES.

COMMITTEE APPOINTMENTS

Administrator White noted information was provided by Town Clerk Cowdin regarding Committee Appointments. Administrator White reported that terms for all volunteer committees except the Library Board expire on August 31st. Library Board appointments are on a calendar year basis. As required by Resolution 3-93, these vacancies will be advertised for three weeks, and vacancy information will be included on the July utility bills. We have three vacancies on the Planning and Zoning Commission, with two of the vacancies for residents within the town limits of Berthoud and the third for a rural representative. We have two vacancies on the Parks and Open Space Board for residents within the town limits. We have three to five vacancies on the Tree Board with the majority of the vacancies to be filled by residents within the town limits, and we have one vacancy for a resident within the town limits on the Historic Preservation Commission. Resumes and letters of interest are to be received by the Town Clerk no later than July 21, 2003.

Mayor Karspeck noted that our current ordinance requires that any current members interested in continuing on these committees must reapply. He thanked Staff for providing this information.

EXECUTIVE SESSION

Mayor Karspeck noted an Executive Session is needed to discuss negotiations for land at I-25 and for water. With no objections and by unanimous consent, the Board adjourned to an Executive Session at 8:35 p.m. Mayor Karspeck noted the Board will adjourn from the Executive Session.

With no further business before the Board, the meeting adjourned at 9:23 p.m.

Milan Karspeck, Mayor

Charlene Reed, Deputy Town Clerk