

TOWN OF BERTHOUD
REGULAR MEETING
TUESDAY, MARCH 25, 2003
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The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, March 25, 2003, in the Board Room of Town Hall. Mayor Karspeck called the meeting to order at 7:30 p.m.

MEMBERS PRESENT: Mayor Karspeck
Mayor Pro-Tem Jenny Foote (left 9:00 p.m.)
Trustee Don Ashcraft
Trustee Glen Buckingham
Trustee David Gregg
Trustee Michael Patrick
Trustee Peder Thorstensen

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

PLEDGE OF ALLEGIANCE

Mayor Karspeck led the pledge of allegiance.

CITIZEN 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 held on March 11, 2003.

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

MAIN STREET MANAGER

Administrator White introduced Dierdre Daly, the new Main Street Manager. Ms. Daly advised the Board that representatives from the Colorado Community Revitalization Association were in Berthoud today, taking a tour of the Town and visiting with business owners and residents. They were pleased with the support that was evident, and felt the Town has a lot of potential to succeed with its Main Street program. She thanked the Board and the Town for their support.

Mayor Karspeck noted the group was organized by Barb Silverman, the Executive Director of the CCRA, and included members of an impressive list of State organizations.

2002 NATIONAL ELECTRIC CODE© ADOPTION

Mayor Karspeck opened the public hearing. Building Official Buckley summarized the information presented to the Board, requesting approval.

Mayor Karspeck opened the floor for public comment and there were none. He read the title of the ordinance and returned the item to the Board for discussion.

Trustee Buckingham moved to adopt Ordinance 958, an ordinance adopting the 2002 National Electrical Code©. Second by Trustee Thorstensen. All members voted YES.

PUBLIC HEARING – INITIATIVE PETITIONS

Mayor Karspeck opened the public hearing. Town Clerk Cowdin informed the Board that we received the two petitions on February 3, 2003. Verification was completed on February 28 and notification sent. The protest period lasted until March 15, 2003 and no protests were received. Now that the protest period is over, the Board has 20 days to address the issue, and two options from which to choose. The Board can adopt either or both ordinances as presented with no changes, or can refer either or both for an election. If the Board decides to refer either or both items for election, the first available date for an election would be May 20, 2003, and the last date allowed under statute would be August 12, 2003.

INITIATIVE PETITION REGARDING THE REPEAL OF ORDINANCE 874 (2-5% GROWTH LIMITATION)

Mayor Karspeck noted the Board needs to consider each of the petitions separately, starting with the Petition to repeal Ordinance 874, the 2% - 5% growth cap limitation.

Tom Patterson addressed the Board, noting he has been a resident of Berthoud for 30 years. He is a member of the Committee for Better Berthoud, the group of concerned citizens who put together the two initiatives. He noted the growth cap was an attempt to create a simple solution for a complex problem and it has failed. While everyone in the Town of Berthoud agrees that we want to preserve the small town feel of Berthoud, a growth cap is not necessary to accomplish this goal. The Town of Berthoud already has very strict guidelines in place to manage growth.

According to Mr. Patterson, since its passage in 2000, the growth cap has had a negative impact on the Town. We have suffered revenue losses, resulting in significant rate

increases for the residents. He noted he has talked with lenders, and they are not comfortable financing projects in areas affected by growth caps. He noted the Committee feels that overturning the growth cap and instituting growth management is the right thing to do and now is the right time to do it.

Trustee Ashcraft noted the Board has two options for each petition, and asked Mr. Patterson if he has a preference in how the petitions are handled. Mr. Patterson noted his preference would be for the Board to adopt both of the petitions and get this issue behind the Town. However, the repeal of Ordinance 874 was passed by the voters, and should probably be repealed by the voters. The petition regarding the adequate public facilities is similar to item #11 on this evening's agenda, and the Board may wish to address this item at the same time.

Trustee Patrick asked if the Committee feels the two ordinances are linked, or would it be acceptable to go ahead and adopt the adequate public facilities petition and then refer 874 back to the voters. Mr. Patterson did note that might negatively impact the vote because the adequate public facilities initiative is being presented as a replacement to the cap.

Trustee Patrick noted there is significant similarity between the public utilities initiative petition and the ordinance being considered this evening. He expressed concern that it might create problems if we pass the proposed adequate public utilities ordinance on the agenda this evening and then have the initiative petitions passed in an election at a later date, superceding the ordinance passed this evening. He suggested it might be more beneficial to the Town if we go ahead and consider the petition regarding the adequate public facilities this evening, to prevent future problems in interpretation. It is not the Board's concern regarding whether separating the two items will have an impact on the election. The Board is obligated to do what is best for the Town.

Jeff Hindman addressed the Board. He noted he talked with the Town Attorney, and understood that there would not be a conflict between the initiative petition and the ordinance, because the ballot language was written specifically to give the Board the maximum flexibility. What the Committee is proposing gives the Board the ability to interpret the citizens wishes. He notes the Committee sees to two initiatives working hand in hand, but if the Town Board decides to adopt either of the initiatives that would be a vast improvement over what we have today.

Trustee Patrick suggested it might be a little more complicated due to the statutes. The petition and the ordinance are similar, and the two will have to be synthesized sooner or later. A majority of what is included deals with practices that are already in place. Mr. Hindman agreed, but noted the third section basically exempts the I-25 area from the cap.

Mayor Karspeck read the summary of the petition and opened the floor for public comment.

Brian Anderson, 1129 Arapahoe Avenue noted this issue should go to the voters.

Gisele Berzins of 205 E. Iowa Avenue addressed the Board, noting the cap has spoken a couple of times already. There have been two elections to determine whether the voters want the cap to remain in place, and both times, the answer was yes. The Town has spent a lot of time developing a residential allocation system to improve the way the growth cap functions. She noted she would definitely like to see this petition go to the voters, and she looks forward to voting for the cap repeatedly.

Karen Stockley of 316 Bothun Road noted this is the fourth time we have voted on the growth cap, and suggested it is unfortunate that once an item has been voted down, it can keep coming back to the voters. She noted she will actively campaign to keep the cap and asked that the Board send the issue back to the voters.

Ian Tinney of 726 6th Street noted this is not the first growth ordinance the Town of Berthoud has had. The first growth ordinance was passed in 1979. That ordinance was the reason that Little Thompson was allowed to develop a large service area of customers that should be serviced by Berthoud. That ordinance was voted on five times over a five year period, and the fifth time it was repealed. During the last election to repeal the current growth cap, the measure failed by 38 votes. The Town is evenly divided over this issue and it should be considered again. He also noted that historically the fastest the Town of Berthoud has ever grown is 6%. The growth cap is the reason home prices are increasing in Berthoud, and if we continue on this path, our children will not be able to buy a home in Berthoud.

Thomas Jones, Jr. of 428 Massachusetts noted he has lived in the Town of Berthoud since he was 2 years old, and the population when he was in grade school was approximately 800. He noted if we do not allow growth in Berthoud, we will be surrounded by other Towns. We will have Johnstown, Loveland and Longmont at our borders. He suggested that the Town is fighting, and it needs to stop. The people can control how fast the Town grows without a growth cap. This can be done by electing a strong Board of Trustees. We can allow our Town Board to determine what growth in Berthoud looks like, or we can allow the surrounding towns to make that determination for us.

Larry Bebo of 619 E. Highway 56 agreed it is time the Town quits fighting. He suggested permits are too expensive in Berthoud. He also agreed the growth cap has the Town divided and it should go back to the voters and be repealed.

Jeff Hindman of 348 Turner noted he sat on the Board for six years. He was on the Board when the current growth cap was passed, and since that time, the problems the Town has experience have been directly related to the cap. Before the cap passed, the Town averaged 60-80 new homes per year. The Board never allowed more than 40 permits per year for one development. There was a good plan in place to manage growth, and the Town had the funds to purchase land for a recreation center and land to be used

for a new Town Hall in the future. We were a thriving community and were able to attract McWhinney Enterprises to be a part of Berthoud.

Mr. Hindman noted that since the cap passed, we have been forced to allow the presale of permits. That was rejected initially when the cap passed, but is necessary now to prevent excessive surcharges. The Town staff has been countless hours and funds to develop an allocation system, which will help with the problem, but will not solve the problem. If Berthoud is going to attract high quality retail and development, the voters need to repeal the growth cap. Our County Commissioner, Glen Gibson, has said he hopes the voters fix this problem this time. Larimer County cannot stop people from developing to our borders if we do not allow development. We have had legal problems at I-25 due to the cap. When the cap passed, the property owners in that area moved forward with de-annexation. The Town has lost leverage and bargaining power, and it will be to the Board's credit if we salvage I-25. There has been a huge amount of wasted energy and time caused by the growth cap.

Mr. Hindman suggested both sides need to focus on what they agree on. We do not want cookie cutter sub-divisions. We do not want Johnstown to control our interstate. We do want smart growth in Berthoud. He did note that Berthoud's fees are similar to the fees in other Towns in our area, with the exception of the Open Space Fee. Other Towns do not have that fee and do not work as hard as we do in Berthoud to preserve our buffers. He urged the Board to adopt both initiatives, but noted if we are sending this initiative back to the voters, he would like to see the election on May 20, 2003.

Rick Eason of 330 S. 8th Street noted in his opinion it is hypocritical that people move into this Town and then vote for a growth cap to keep other people out. Growth in Colorado is going to continue, and we are stifling our community. If growth happens through the County, people can do whatever they want. The only way to control growth in Berthoud is to repeal the growth cap and allow the Town Board to do their job.

Charles Winston of 830 10th Street noted he has lived in the Town of Berthoud since he was in the 4th Grade, many years ago. He noted the growth cap has backfired and is not protecting the Town from growth. It has had a significant impact on the Town's ability to manage our debt. As a Board member of the Berthoud Fire District, he noted the cap has had a negative impact on the revenues needed to support our fire department. He noted it is the responsibility of our elected leaders to manage growth and negotiate agreements, and without the growth cap, they will have the flexibility to do their job.

Sharon La Poehn of 230 2nd Street noted she voted for the cap when it first came out. Since that time, she has become more self-educated, and now recognized the impact the cap is having on the Town. She noted growth should be controlled, but by the Board. She noted she would like to see both sides work together and realize that our goals are the same, to keep the small town Berthoud flavor.

Mayor Karspeck returned this item to the Board.

Trustee Ashcraft noted that once an issue has been sent to the voters, the voters should be allowed to make the decision regarding whether the initial decision still stands. He noted he believe adamantly that this issue should go back to the voters.

Trustee Gregg suggested both items should be referred to the voters.

Trustee Patrick noted Board members represent the voters. This ordinance has been voted on three times and is coming up again. The initiative process is there for a purpose, and the cost of an election is small when you are seeking direction from the voters. With respect to the second proposal, he suggested the Board is free to do what is best for the Town.

Mayor Pro-Tem Foote agreed this issue needs to go back to the voters.

Trustee Buckingham agreed the repeal of Ordinance 874 should go back to the voters, but he noted he can only recall two years in the past where we exceeded the growth allowed by the cap.

Trustee Ashcraft moved to refer the proposed initiative petition regarding the repeal of Ordinance 874 for election. Second by Trustee Gregg.

Trustee Buckingham noted he has a lot of respect for the individuals representing both sides of this issue for being here this evening.

All members voted YES.

**INITIATIVE PETITION REGARDING PROPOSED
ORDINANCE FOR ADEQUATE PUBLIC FACILITIES**

Mayor Karspeck read the summary of the proposed ordinance and opened the floor for public comment.

Jeff Hindman addressed the Board, noting it is good that the citizens will get to vote on the repeal of the growth cap. He noted this ordinance will not have its intended affect if the growth cap is not repealed. This petition was written to give the citizens an alternative to the growth cap.

Gisele Berzins of 205 E. Iowa Avenue asked if the petition being presented is the same as the adequate public utilities ordinance that is being considered by the Board this evening. Trustee Patrick noted the ordinance being considered this evening has been developed by the Town over the past year, and is significantly more detailed than the initiative petition.

There were no further comments and Mayor Karspeck returned the item to the Board for discussion.

Trustee Patrick noted suggested the Board adopt the initiative petition regarding adequate public facilities prior to looking at the item being considered under agenda item #11. Then that item could be considered and passed, and will be the controlling ordinance. He noted the issue here is not whether the Board influences the election. Both sides will have two months to present their side of the issue. However, we do not want to have an apparent conflict by passing the Town's adequate public facilities ordinance this evening, and then having the initiative petition passing in two months. The solution to that problem is to go ahead and pass the initiative petition this evening and then pass the ordinance under item #11 this evening. That will prevent any conflict.

Trustee Patrick moved to adopt the initiative petition ordinance regarding adequate public facilities. Second by Trustee Buckingham. Mayor Karspeck, Mayor Pro-Tem Foote and Trustees Buckingham, Ashcraft and Patrick voted YES. Trustees Gregg and Thorstensen voted NO. The motion carried.

BALLOT LANGUAGE

Mayor Karspeck noted the Board needs to approve the ballot language for the initiative petition item which is going before the voters. The proposed language was as follows:

Should ordinance 874, which limits the issuance of building permits in the Town of Berthoud for the construction of new residential dwelling units to two-five percent (2-5%) of the total number of residential dwelling units on December 31, 2000 and for each year thereafter, be repealed?

Trustee Ashcraft moved to approve. Second by Trustee Gregg. All members voted YES.

ELECTION DATE

Mayor Karspeck noted the Board needs to set the date for the election. Town Clerk Cowdin noted the first date this can be considered would be May 20, 2003. That is the only date that can be considered before Memorial Day.

Mayor Karspeck suggested it makes sense to go with the earliest date to resolve this before Berthoud Days.

Trustee Patrick moved to set the date for the election to consider the repeal of Ordinance 874 on May 20, 2003. Second by Trustee Buckingham. All members voted YES.

Mayor Karspeck called at break at 8:55 p.m.

Mayor Pro-Tem Foote left at 9:00 p.m.

The meeting reconvened at 9:08 p.m.

PUBLIC HEARING – ESTATES AT MATTHEWS FARM
FINAL PLAN AND REPLAT

Planner Reed summarized the information presented, and noted the applicant is asking that the Board consider the Agreement to Make Gift before we go forward with the Final Plan and Replat.

Mayor Karspeck continued the hearing from a prior meeting and agreed that the first item to be considered will be the Agreement to Make Gift.

AGREEMENT TO MAKE GIFT

Cameron Grant addressed the Board on behalf of M & K Investments, noting they have been before the Board on several occasions regarding their request to donate 19 acres to the Town of Berthoud as open space. Based on the information provided during the public hearing two weeks ago, they are presenting a draft Agreement to Make Gift for Board approval. He noted when the Board created the 287 buffer, they took away the economic use of this piece of property without compensation. They are asking to donate this property to the Town, which would allow them to recover a portion of that economic value as a tax deduction. He noted this donation will give the Town more control over the property than they would have had otherwise, and M & K is retaining the maintenance obligation until the subdivision is complete, and then that responsibility will pass to the Homeowner Association of the Estates at Matthews Farm. They will reseed the property in native grasses that will not require irrigation, install trails and keep the property mowed. There is also the possibility of future connection to their non-potable irrigation system for drip irrigation for the property. M & K Investments and the Estates at Matthews Farm will be required to maintain the property as long as it is open space. He noted Attorney Fickel suggested they revise the language in paragraph 8 to allow that obligation to be relinquished partially. That would allow the Town to use a part of the property, and the homeowners association of the Estates at Mathews Farm would continue to maintain the remainder.

Trustee Patrick asked what would be the benefit to the Town in accepting the gift with no access and no water. Mr. Grant responded this is voluntary donation by landowner requiring no effort from the Town. It gives the Town full control over the property, rather than having it owned by the Homeowners Association. This preserves the open space in perpetuity.

Trustee Patrick asked what access the Town would have to the property. Mr. Grant responded the area set aside as a trail would be the primary access at this time. Other access would be across private property. It was noted that the original agreement was amended, restricting the usage allowed on the property. The surrounding landowners do not want to see active recreational uses there.

Board members requested clarification from Planner Reed on the differences between buffers and open space and Mr. Reed provided that information. It was determined there are more restrictions to open space than required in a buffer.

Board members suggested that if there was access to the property, that would make this offer more attractive to the Town. Mr. Grant noted there is the possibility of a utility easement. Ken Wiebel, the owner of the development noted a utility easement was put in two years ago for Little Thompson, which the Town should be able to use. He also noted there is a pump house next to the property, and there will be a road to the pump house. The Town should be able to reach the property from that road.

Trustee Ashcraft noted the information provided suggests that the capacity of the non-potable system will be limited to the final build out. Mr. Weibel agreed, but noted that is based on the use of two pumps and two meters. The system has can be expanded to four pumps, giving additional capacity. Their capacity is limited by how much water they can get. If the Town is willing to contribute water, their system can be expanded to handle that additional water.

Trustee Gregg noted open space in perpetuity is a good idea, and suggested all we would need for the property is maintenance.

Mayor Karspeck noted this is an important corridor to the Town, and this donation is valuable to the Town. We are getting a trail and more open space. He noted he is pleased with this agreement.

Trustee Gregg noted the Town will be taking on the liability for the property and asked if that is something we should be comfortable with. Planner Reed noted this property has no characteristics that would contribute to insurance issues. The property is flat and has no know hazards. Trustee Gregg noted he is in favor of the proposal if we can resolve the issue of access.

Trustee Gregg moved to accept the Agreement to Make Gift with the condition that we work out a maintenance access to the subject property and with the revision to paragraph 8. Second by Mayor Karspeck.

Trustee Patrick noted that while open space on its own is a laudable objective for any town, he is trying to evaluate whether the Town will have the flexibility to consider any other use. When you read the 8th clause of the agreement, it specifically says town can

change use. He noted it is not unreasonable to ask for access to property we own; otherwise, we would have to condemn property to allow access. The advantage to accepting this donation is limited to making sure this property would be open space in perpetuity. Even with that, he noted he is not sure a future Board could not change the use, the same as the homeowners association could. What advantage do we have to accept the open space that offsets the liability from owning the property?

Mayor Karspeck noted the Town gains a nice trail, no fences, and we end up with a better buffer than what is required under our regulations.

Planner Reed suggested the requirement for access can be included in the final plat.

Attorney Fickel noted one other issue that should be considered is the maintenance on the property. If the homeowner association fails to maintain the property, the Town will have a large field full of weeds. The maintenance issues and the access should both be resolved in the final development agreement.

Trustee Gregg suggested we request permanent pedestrian access allowing periodic maintenance access.

Trustee Gregg amended his motion to include permanent non-motorized public access and maintenance vehicle access to the property on all three access points.

The applicant agreed to this revision.

Planner Reed expressed concern that the three access points are crossing private properties. He suggested the only permanent access should be across the central park. Attorney Fickel noted we are better off requiring the access to all three points at this time, but can make changes at a later date if we have problems.

Trustee Gregg amended his motion to accept the gift with access subject to negotiation in the final development agreement. Second by Mayor Karspeck. All members voted YES.

FINAL DEVELOPMENT PLAN AND FINAL PLAT

Planner Reed summarized the presentation for the final development plan for the Estates at Mathews Farm.

Mayor Karspeck opened the floor for public comment. With no comments from the audience returned to the Board.

Trustee Buckingham moved to approve the Estates at Matthews Farm final development plan, finding that it meets or exceeds the approval criteria 1-8 as stated

on pages 5 and 6 of the staff report and with one condition as stated on page 6 of the staff report and with the access and gifting issues to be resolved in the final development plan. Second by Trustee Gregg. All members voted YES.

Trustee Buckingham moved to approve the Estates at Mathews Farm final plat, finding that it is in compliance with Subdivision Regulations of the Town of Berthoud, Section 30-6-107 of the Development Code, and with one condition as stated on page 7 of the staff report and with the access and gifting issues to be resolved in the final development plan. Second by Trustee Gregg. All members voted YES.

MASTER PLAN SCHEDULING AND FUNDING

Planner Reed noted the purpose of this item is to request guidance from the Board regarding the following items:

- 1) essential components of proposed (sub-area) master plans;
- 2) fee/costs associated with various plan components;
- 3) necessary resources from manpower to funding;
- 4) approach to completing components of plans, and
- 5) project schedule for plans.

He noted Mayor Karspeck suggested this request be continued to a study session for a more detailed analysis. He noted he is asking for clear direction regarding the scope of the master plans we are undertaking.

Board members agreed this item needs further consideration at a study session.

PUBLIC HEARING – RESIDENTIAL ALLOCATION SYSTEM

Mayor Karspeck opened the public hearing. Planner Reed summarized the proposed ordinance.

Mayor Karspeck opened the floor for public comments.

Gisele Berzins of 205 E. Iowa Avenue asked specific questions regarding portions of the proposed ordinance, suggesting the agreement incorporates extensive loopholes to circumvent the growth cap. She asked if permit allocation ordinances for Golden and Boulder were reviewed by the authors of this document.

Trustee Patrick responded that allocation ordinances for Golden, Arvada and Thornton were extensively reviewed. The committee spent an enormous amount of time considering these issues over the past eight to ten months. This document was written by a sub-committee which involved several members of the Board of Trustees, and a

large group of the residents of the Town who have been active in the process from the beginning. The Committee took into consideration extensive comments gathered during the public comment phases and during two or three study sessions with the Board.

Mayor Karspeck noted the Committee looked at the plan in place in Golden, but not Boulder. Planner Reed noted the previous planner did review both the Boulder growth cap and allocation system.

Karen Stockley of 316 Bothun Road noted she was involved in the development of the allocation system, but in the final document noted one area of concern. She would like to see some sort of a cap on the roll-over of permits.

Trustee Patrick defined the purpose of the allocation system. The Board and sub-committee synthesized four different plans including the plan defined by Mayor Pro-Tem Foote, suggestions from Mayor Karspeck, the plan put together by Planner Reed, and a plan constructed by Trustee Patrick. Throughout this process, it was always understood that this is not a permanent solution. This was constructed to be an interim plan for 2-4 years to solve the financial concerns of the Town, to give allocations to developers already working in Berthoud, and to direct the Town Planning staff to complete master planning for the Town of Berthoud. This is designed to take care of the Town's needs while the master plan is complete. He noted there are some changes that need to be addressed before the Board approves the final document.

There were no further comments from the public. Mayor Karspeck returned the item to the Board.

Trustee Patrick suggested and Board members agreed to the following changes to the proposed plan:

Section 2, Paragraph 1: Building permits previously allocated by agreement for the years 2001, 2002, 2003 and 2004 shall be permitted to roll forward. Unallocated permits are to be placed into the discretionary pool subject to Section 4.

Section 6, Paragraph 6.1: The Board of Trustees may, in its discretion and subject to the availability of adequate public facilities as set forth in the Development Code of the Town of Berthoud allocate all other residential building permits not otherwise allocated as set forth in Section 2. When establishing the allocation, the Board of Trustees may, but is not required to, give special consideration to projects of special merit which may include, but not be limited to those described in 6.1.1.

Renumber the paragraph beginning "Housing for older persons..." as Section 6.1.1.

Item 6.1.1 e. will be revised to read "Single Family Residences Developed as Affordable Housing, but only subject to further evaluation."

Paragraph 6.2: Revise the last line as follows:

“Since each project requesting consideration for special merit will be unique, no fixed evaluation criteria may be established at the present time.”

Trustee Patrick moved to approve the Residential Allocation System ordinance with the changes noted. Second by Trustee Gregg. Mayor Karspeck and Trustees Patrick, Gregg and Buckingham voted YES. Trustees Ashcraft and Thorstensen voted NO. The ordinance passed.

Mayor Karspeck noted there are potential loopholes in this ordinance, but that was intentional. The Town of Berthoud has guidelines that limit growth in place that will be followed in conjunction with this ordinance, and this will allow the Board to do their job.

Trustee Patrick addressed the questions regarding the discretionary pool, noting that the only permits currently in that pool are 62 permits from 2001. Permits from 2002 and 2003 are already fully allocated to the limits allowed by the growth cap. We are not discussing a large number of permits. He also noted the maximum number of permits that can be put in the discretionary pool are those left over from the 5% allocation.

Trustee Buckingham commended the Board members, Town Staff and those individuals that participated in the development of this ordinance for setting aside their differences and coming together to find a solution to the allocation issue.

Trustee Ashcraft noted the allocation system does not resolve the problems caused by Ordinance 874. He suggested this is a small band aid on a large wound. It will not resolve the problems created by the ordinance, nor will it resolve the financial problems the Town is facing because of the growth cap.

ADEQUATE PUBLIC FACILITIES ORDINANCE

Mayor Karspeck opened the public hearing. Planner Reed summarized the information provided regarding this ordinance.

Board members discussed how to integrate this document to the initiative petition that was passed earlier in the meeting. Attorney Fickel noted there are several items in the initiative that are not included in this ordinance.

Following discussion, it was decided to make the following changes to the Ordinance.

Amend the title of the Ordinance, as follows:

AN ORDINANCE OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO; ESTABLISHING PROVISIONS FOR ADEQUATE PUBLIC FACILITIES AND SERVICES; PROVIDING A SEVERABILITY CLAUSE, SYNTHESIZING THIS ORDINANCE WITH ORDINANCE 959; AND PROVIDING FOR AN EFFECTIVE DATE.

Insert the following as Section 6: It is the intent of the Board of Trustees to synthesize this ordinance and initiated ordinance #959.

Renumber the following paragraph as Section 7, and add the following line to the end of the paragraph:

“To the extent these two ordinances are in conflict, the provisions of this ordinance shall prevail.”

Mayor Karspeck opened the floor for public comment and there were none. He returned the item to the Board.

Trustee Gregg noted it is important to have an adequate public facilities ordinance; however, he suggested the ordinance we are considering lacks the definition we need. He suggested the language we are considering is adequate to serve as a resolution to give staff direction to define specific standards for adequate public facilities.

Mayor Karspeck noted the Board must be reasonable in their decisions until we have clear guidelines.

Trustee Patrick suggested this ordinance can give us guidance to move forward with specific standards.

Trustee Thorstensen pointed out that our current sewer system is operating above capacity. He asked if we will have to restrict permits for our current developments. Trustee Patrick noted this ordinance will only apply to a final development agreements which would come before the Board two years from now. All current subdivisions are exempt from this agreement, with the exception of the permits that were unallocated in the discretionary pool.

Trustee Buckingham noted the Board is already mandated to review public facilities before any annexations occur to the Town of Berthoud.

Trustee Patrick moved to adopt Ordinance 961, the Adequate Public Facilities and Services Ordinance, as amended. Second by Trustee Buckingham. Mayor Karspeck and Trustees Buckingham, Ashcraft and Patrick voted YES. Trustees Gregg and Thorstensen voted NO. The ordinance passed.

**CHANGE TO DEVELOPMENT CODE IMPACT FEES –
TIMING OF PAYMENT**

Mayor Karspeck noted the purpose of this item is to set the public hearing to consider the requested changes. Mayor Karspeck asked that this item be considered at the study session scheduled for April 1, 2003.

Board members agreed, and suggested it would be nice to have a comparison of our fees as compared to other communities. Planner Reed agreed to provide this information, but noted he will not be able to get it completed prior to the meeting next week.

LEASE PURCHASE RESOLUTIONS

Administrator White noted we are in the process of completing lease purchases for two pieces of equipment, a 2003 Diamond Vac Truck and a 2003 Diamond SPEC Front Plow Truck with Spreader. Totonka Capital Corporation requires approval of a resolution from the Town Board prior to completing the process.

Trustee Gregg moved to approve resolutions 7-03 and 8-03 authorizing the lease agreements, related instruments, signatories and intent to be reimbursed, as requested. Second by Trustee Thorstensen. All members voted YES.

REPORTS

Administrator White presented information on the following:

Larimer County's program called "County Seat for a Day" is scheduled in Berthoud on April 1, 2003. A dinner is being scheduled for the Town Board and the Larimer County representatives, and he asked that Board members planning to attend R.S.V.P. to Town Clerk Cowdin. The dinner will be at 5:30 p.m. on April 1, 2003 at the Wayside Inn.

Administrator White commended Town staff for their efforts in snow removal. Staff did a great job getting the streets cleared.

Clean Up Day for Berthoud is scheduled for May 17, 2003. Further details will be presented as we get closer to that date.

We have been contacted by Larimer County regarding a request for a disaster declaration for our area because of the snow storm. He noted one business in the Town had a problem with their roof this week following the storm. We are looking into the availability of funds from the federal government and will provide further information at the next meeting.

Negotiations continue with Ryan Gulch Water and the Handy Ditch Company.

We contacted the attorney for Stan Lewis, requesting south access to the new wastewater plant, and are waiting for a response.

He noted he will be on vacation beginning tomorrow, Wednesday, March 26, 2003 and will return to the office on Monday, March 31, 2003. Mary Cowdin will be the point of contact in Town while he is away.

Trustee Buckingham reported a Historic Preservation Committee meeting is scheduled for tomorrow, March 26, 2003, at 7:00 p.m. at Town Hall.

Attorney Fickel noted he sued Loveland Rural Fire Protection District on behalf of the Town. This is a formality to allow us to move areas out of the Loveland Fire District and into the Berthoud Fire Protection District, to allow the Berthoud Fire Protection District to get the mil levies.

MANAGING PUBLIC OFFICIALS LIABILITY

Due to the lateness of the hour, Deputy Town Clerk Reed suggested the video, "Managing your Public Officials Liability," be shown at the Special Meeting scheduled for April 1, 2003. Board members agreed.

With no further business before the Board, the meeting adjourned at 11:59 p.m.

Milan Karspeck, Mayor

Charlene Reed, Deputy Town Clerk