

The Board of Trustees for the Town of Berthoud met for a regular meeting on Tuesday, September 23, 2003, in the Board Room of Town Hall. Mayor Milan Karspeck called the meeting to order at 7:30 p.m.

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

MEMBERS ABSENT: Trustee David Gregg

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

PLEDGE OF ALLEGIANCE

Mayor Karspeck led the pledge of allegiance.

CITIZEN PARTICIPATION

Cecillia Bessette of 428 Welch Avenue addressed the Board regarding the trash being dumped at the recycle area at 3rd and Welch. She passed around a photo of the area, and suggested that a visitor to Berthoud would not be impressed with the Town if that is one of the first things they saw. She also noted the stench in the area is overwhelming, since people are dumping trash in the area along with the recycle. She offered several suggestions to resolve this problem, including moving the location to the transfer station, or getting residents of the Town involved in patrolling the area. She asked if the Police Department has adequate officers to patrol the area, and noted if we could give tickets, that would discourage people from continuing this inappropriate behavior. She noted if we do not have adequate staff to patrol the area, it might be possible to put a camera in the area and write tickets for the offenders in the photos. She noted she has always been proud to live in Berthoud, and this area is turning into an eyesore.

Administrator White thanked her for her suggestions. He noted this has been an ongoing problem, and the Town has looked at other alternatives to resolve the problem. He noted moving the area to the transfer station was considered, but since that facility is only open two days a week, that was not considered a viable option. The Town does not presently have the manpower on our Police Department to have the area monitored frequently enough to make an impact on the problem. He noted the present location does discourage people from blatant dumping, since it is located in highly visible location. He noted we will continue looking for a solution, and asked for citizens to get involved in the resolution of this problem.

Dr. R. B. Fickel of 645 7th Street addressed the Board regarding a suggestion that we name the new wastewater plant after Orb Mayo, who was a long time resident of the Town for many years, and is deserving of this honor.

Mayor Karspeck asked if the information regarding naming that was previously sent out in the packets could be distributed again. Town Clerk Cowdin agreed to include that in the next packet. He also asked that this be included on an upcoming study session.

REPORTS

Mayor Karspeck reported that he attended the recent Parks and Open Space Board meeting to discuss the Board's concerns regarding the park in Collins Development. This park is currently located in the center of the development, and is not accessible to the trail, which runs adjacent to an outlot with green space. Mayor Karspeck noted Trustee Gregg was in the meeting and he suggested the developer consider moving the park adjacent to the outlot, which would make it accessible to the trail. He requested Board approval to direct staff to work with the developer to see if this can be accomplished.

Mayor Pro-Tem Foote agreed, as long as this is acceptable to the developer.

Trustee Patrick noted he would like to see a plan prior to approving such a change. He noted the current plan puts the park away from the connector street, which is safer for the children that will utilize the park.

Trustee Buckingham agreed that a visual plan would be key to approval for such a drastic change. The central park, as approved, does provide close access to all the residents of the development. He noted the developer has already spent significant funds to have the area redesigned to remove the park. The Board needs to be careful that we are not putting a financial burden on this developer by asking him to change his plans again.

Mayor Karspeck suggested this change could be made between the approval of the preliminary plat and the presentation of the final plat.

Trustee Patrick noted that could be a problem if the Board did not like the final plat. He suggested the developer should get approval prior to reach the final development stage.

Following discussion, Board members agreed to allow staff to investigate these options.

Administrator White reported that the Fall Festival is scheduled for Saturday, September 27, 2003. He noted scarecrows have been placed along Main Street advertising this event.

Administrator White reported the Berthoud Elementary project is ongoing. An IGA between the Town and the School District has been prepared, which will be coming before the Board at a future meeting.

Administrator White reported that the Farmers Market will continue into October. We do not have an actual end date, as that will depend on how much longer the farmers have crops to sell. He noted this is a tribute to the success of this market, and commended Renee LeBeau, Diedra Daly and Scott Banzhaf for their efforts with this event. He also commended Brian Saya and the Parks and Recreation Department staff for their assistance.

Administrator White noted our water attorney will be working with the Wilson's and the McWhinney's regarding water along the I-25 corridor.

CONSENT AGENDA

The consent agenda consists of 6a., the minutes of the regular meeting held on September 9, 2003 and the minutes of the special meeting on September 16, 2003, 6b., the financial statement for August, 2003, and 6c, a liquor license renewal for Kwik Corner.

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

PUBLIC HEARING – ORDINANCE REGARDING CURFEW IN TOWN PARKS

Attorney Fickel presented ordinances which defined the two options being suggested to the Board. He noted the two ordinances are basically the same, except one allows residents to use the tennis courts under the lights. The Police Department is having difficulty monitoring the parks, and our present ordinance closes the park at 11:00 p.m. This ordinance can be used to better control the type of activities allowed in our parks, and will be subject to officer discretion. He recommended that we put this ordinance in force and if it does not resolve the current problems, we can re-evaluate the situation at that time.

Trustee Ashcraft felt the ordinance which allowed use of the tennis courts would be appropriate, since the courts are lighted.

Trustee Buckingham noted this ordinance may not resolve our problem with kids being out after hours, it may just relocate the problem.

Trustee Ashcraft noted the problems in the parks occur during the day, as well, and he suggested this is a good start to resolving this problem.

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

David Latsch of 704 Welch Avenue commended officer John Vienhage for a good arrest on Sunday. The individual he arrested had several warrants against him. Mr. Latsch noted he addressed the Board several weeks ago regarding loud music and graffiti in the parks, and he thanked the Berthoud Police Department and the Town Board for taking this problem under consideration.

Mr. Latsch addressed the increasing problems with small motorized scooters that are being ridden through Town on the parking lots adjacent to Mountain. He noted there are a large number of 7-9 year old kids riding these scooters and there is the potential for these children to cause or be involved in accidents with motor vehicles.

Mayor Karspeck read a letter from Cindy and Grant Kusano in support of this ordinance.

Mayor Karspeck closed the floor and returned this item to the Board.

Mayor Pro-Tem Foote asked how this ordinance would affect vendors for the Arts and Crafts Festival. She asked if she would be allowed to request permission from the Town for her vendors to use the park on the evening before the event. Attorney Fickel confirmed that would be appropriate.

Trustee Patrick noted it is a shame that the bad behavior of some residents will cause other residents to lose access to our parks for evening activities. He expressed concern that this ordinance makes it illegal for a resident to walk in the park after dark, and asked if it would be possible to define the type of activities that are not allowed.

Mayor Karspeck asked if the ordinance can make it illegal to loiter in the parks. Attorney Fickel noted that is not done in other municipalities, because then it becomes necessary to define loitering. It is better to close the parks at a given time, and then leave it to the discretion of the Police Department.

Trustee Thorstensen suggested allowing access to the tennis courts after hours may be giving the offenders a way to have continued access to the parks.

Trustee Ashcraft asked if we have the manpower and resolve to solve this problem. It is important that our parks be used appropriately, and it will be necessary for our officers to monitor this situation closely.

Trustee Buckingham noted the Board needs to send a clear message to the Police Chief and the Police Department that they are empowered to enforce the law. There are illegal activities occurring in our parks, and the police officers need to understand they will be supported in their efforts to eliminate that type of activity from the Community. Chief Wegener needs to know the Board is behind him in eliminating inappropriate behavior in Berthoud.

Trustee Ashcraft agreed and noted the Board needs to send a strong message to the Police Department that it is time to step up.

Mayor Karspeck noted the signs in the park will have to be changed to reflect the change in hours. He noted the kids in the park this summer were there during the hours the park was open, and officers were forced to wait until 11:00 when the park closes to ask them to leave. He spoke in favor of the ordinance..

Trustee Patrick suggested there is a small amount of usage on the tennis courts and supported eliminating the exception.

Trustee Buckingham disagreed, noting there are many families in Berthoud that use the tennis courts in the evening. He recommended leaving in the exception for using the tennis courts, and then if problems occur, we can remove that exception.

Trustee Patrick noted this ordinance allows our officers to write tickets, which will result in fines. He asked what further action the officers can take if individuals refuse to leave the park or if they keep coming back. Attorney Fickel explained what options the officers have through the courts.

Trustee Patrick asked suggested the ordinance be amended to include an emergency clause. Since this is an ongoing problem, it would be better to put it in force now, rather than being required to wait 30 days.

Trustee Buckingham noted the ordinance should be put in effect immediately since it affects the safety and welfare of the community.

Mayor Pro-Tem Foote moved to adopt Ordinance #971, an Ordinance supplementing Title 17 of the municipal code of the Town of Berthoud, allowing after hours usage of the tennis courts, and with an emergency clause. Second by Trustee Buckingham. All members voted YES.

**CONTINUATION OF PUBLIC HEARING – WILSON RANCH ANNEXATION, REZONE,
OVERALL DEVELOPMENT PLAN, DEVELOPMENT MANUAL**

Planner Reed noted the review of this project continues in the Planning and Zoning Commission. This is a continuation of a public hearing from September 9, 2003, and the applicant has asked to present a PowerPoint presentation on the Development Manual.

Attorney Fickel noted negotiations continue on this project, and it should be ready to come before the Board in the near future.

Mayor Karspeck thanked Mr. and Mrs. Wilson for attending this evening's meeting.

Steve Schoyer addressed the Board and thanked them for the opportunity to provide the PowerPoint presentation on the Wilson Ranch Development Manual. He noted their goal is to get this in front of the Board to allow the members time to review and peruse this document prior to receiving a recommendation from the Planning and Zoning Commission. This project is moving well through the Planning and Zoning Commission and should be coming before the Board in the near future.

Mayor Karspeck asked if we have a timeline regarding when this project will come before the Board. Planner Reed responded that at this time we are waiting for a recommendation from the Planning and Zoning Commission. They are meeting weekly and working hard to get through all the information being presented. Until they complete their review, Staff will continue to recommend that this public hearing be continued to the next regular meeting. Mayor Karspeck asked if Planner Reed anticipates this coming before the Board this fall and Planner Reed noted that is the plan at this time, and the applicant is hoping for Board approval before the end of the year.

Mayor Karspeck suggested a joint meeting between the Planning and Zoning Commission and the Board to allow for discussion between the two groups. Planner Reed agreed.

Trustee Ashcraft suggested a joint session would allow the Board to understand the direction of the Planning and Zoning Commission.

Mayor Karspeck agreed, noting that the Planning and Zoning Commission has put a lot of time and effort in their review of this project. He felt it would be helpful to understand the basis of their recommendations.

Mr. Schroyer noted the recommendations received from the Planning and Zoning Commission have been valid and helpful to make the development better.

Mayor Karspeck requested that any changes that would affect the resolutions the Board has passed regarding this area should be discussed and resolved prior to the public hearing before the Board. Planner Reed noted any variations in this area will be pointed out by staff.

Mr. Schroyer suggested Planner Reed begin scheduling a tour of the property for the Board. Planner Reed noted that will be set up in the near future.

Mr. Schroyer presented the PowerPoint presentation regarding the Wilson Ranch Development Manual.

Trustee Buckingham moved to continue the public hearing for the Wilson Ranch Annexation to October 14, 2003. Second by Trustee Thorstensen. All members voted YES.

SET PUBLIC HEARING – FENCES

Mayor Karspeck explained the purpose of this item is to set a public hearing to amend the Development Code regarding fence setbacks on corner lots.

Planner Reed noted the reason for this request is that an extensive study was done on the fences in Berthoud. There were many fences that were in compliance with this guideline, some that were not, and a large number that would be subject to a variance request. The Planning and Zoning Commission suggested it would be better to resolve this issue, rather than having a massive quantity of variance requests.

Trustee Buckingham felt that was a sensible solution, and asked if those already in place will be grandfathered in under this ordinance. Planner Reed noted the fences would be grandfathered in if a permit was pulled when the fence was put in. If no permit was pulled, then the fence is non-conforming and can be held to current regulations.

Trustee Buckingham moved to set a public hearing to change the Development Code regarding Fence Setbacks for October 14, 2003. Second by Trustee Thorstensen. All members voted YES.

Trustee Patrick asked how this ordinance will affect developments with covenants in place. Attorney Fickel noted this ordinance will supercede the covenants and will prevail. In that case, it would still be necessary to request a variance.

SET PUBLIC HEARING – HISTORIC PRESERVATION COMMISSION

Trustee Buckingham noted the purpose of this proposed change is to expand the size of the Historic Preservation Commission.

Trustee Patrick moved to set a public hearing to revise the number of members on the Historic Preservation Commission for October 14, 2003. Second by Trustee Thorstensen. All members voted YES.

VOLUNTEER BOARDS & COMMISSIONS

Mayor Karspeck noted this item was put on the agenda at the request of Trustee Gregg. He removed the item from the agenda.

EXECUTIVE SESSION - NEGOTIATIONS

Mayor Karspeck noted the Board needs to adjourn for negotiations, and asked Administrator White for the topics to be discussed. Administrator White noted negotiations are for the wastewater treatment plant and the legal situation regarding a Berthoud subdivision. Mayor Karspeck noted with no objections and by unanimous acclamation, the Board will adjourn to an Executive Session for negotiations at 9:45 p.m. He noted the Board will adjourn from the Executive Session.

The Board reconvened at 11:00 p.m. and with no further business before the Board adjourned.

Mayor Milan Karspeck

Deputy Town Clerk Charlene Reed