

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 9, 2003
Page 1 of 16

The Board of Trustees for the Town of Berthoud met for a regular meeting on Tuesday, September 9, 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 Glen Buckingham
Trustee David Gregg
Trustee Michael Patrick (Arrived 7:33 p.m.)
Trustee Peder Thorstensen (Arrived 7:35 p.m.)

MEMBERS ABSENT: Trustee Don Ashcraft

STAFF MEMBERS PRESENT: Town Administrator Jim White
Town Clerk Mary Cowdin
Interim Public Works Director J. L. Walter
Planner Wayne Reed
Parks and Recreation Director Brian Saya
Deputy Town Clerk Charlene Reed

PLEDGE OF ALLEGIANCE

Mayor Karspeck led the pledge of allegiance.

Trustee Patrick arrived at 7:33 p.m.

CITIZEN PARTICIPATION

Mary Ann San Filippo of 730 Douglas Place advised the Board that they have property on West Highway 287 that they would like to sell. She noted they had someone interested in purchasing the property, and she asked for specific information regarding what needs to be done to make this sale possible.

Trustee Thorstensen arrived at 7:35 p.m.

Town Clerk Cowdin noted Planner Reed met with the person who was interested in purchasing the property earlier today, and she understood there were zoning issues that had to be addressed before the sale could be considered.

Planner Reed noted he met with Mr. Dunlap, who was interested in purchasing the San Filippo property and putting an RV Sales and Service on the property. This property is currently zoned M-1, which is light industrial. There are many uses by right in this

zoning classification, but an RV dealership is not a use by right, and would require a special use review by the Planning and Zoning Commission and the Board of Trustees.

Mr. Dunlap would have to go through this process to get approval to establish his business, and this process could take 90 days or more. In addition, Mr. Dunlap is proposing to build a significant structure on the property to house his equipment and the RV's. This would require a site plan, which could require additional time.

Mrs. San Filippo asked for an appointment to meet with Planner Reed and he scheduled an appointment for her for Wednesday, September 10, 2003.

REPORTS

Administrator White reported we received a request from David DuBois to have the Board review our 208 plan. The North Front Range Quality Planning Association asked that the boundaries be reviewed so they can be set for the next two years. This will be scheduled for the study session on September 30, 2003. We need to respond to this request by October 23, 2003, so this will give the Board adequate time to complete the review.

Administrator White reported he was informed by Michael Brod, Colorado Water Resources and Power Development Authority, that our interim loan for the wastewater treatment plan construction has been approved. There is still some paperwork that needs to be completed, but the funding should be in place by the end of September.

Administrator White noted he will participate in a panel discussion for the Colorado Community Revitalization Association to discuss the Main Street program, and the anticipated impact of the 287 bypass on the downtown area.

Planner Reed reminded the Board that the Planning Department applied for a Colorado Great Outdoors Planning Grant on August 1, 2003. We requested \$55,000 for a planning project to develop a master plan for parks, open space, trails and recreation for the Town of Berthoud. This plan will be more extensive than any we have done in the past. He noted we received information that the GOCO planning staff is recommending approval of \$40,000 for this project. Planner Reed noted that amount of funding would be adequate to complete this project, and Staff will attend the GOCO Board meeting on Friday, September 12, 2003 to hear their decision. He reminded the Board that the Town is required to put up \$30,000 in matching funds for this grant, and there are funds available in our Open Space Funds to serve this purpose. He thanked the Board for their continuing support for this project.

Mayor Karspeck commended the Planning Department for their efforts in obtaining this funding.

Parks and Recreation Director Saya reported on the mosquito spraying. The Town did our first spraying on August 25, 2003. This was then repeated on Sunday, August 31, 2003. We received our monitors this week, and will begin monitoring our mosquitos tomorrow night. Following discussions with the Health Department, we are considering spraying one more time to eliminate the spread of West Nile. He noted this process went very smooth.

Trustee Thorstensen asked if the County sprayed in Berthoud. Parks and Recreation Director Saya noted they flew over Berthoud, but did not spray within the Town limits.

CONSENT AGENDA

The consent agenda consisted of 6a., the minutes of the regular meeting on August 26, 2003, 6b., the bills allowed for August 2003, and 6c., the special event liquor license for the Chamber of Commerce for the Fall Festival.

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

CTL/THOMPSON-WASTEWATER

Interim Public Works Director Walter explained that CTL/Thompson submitted a new contract for the additional testing required for the expansion of the new wastewater plant. Mr. Walter noted he reviewed the initial contract from CTL/Thompson, and it was written on a unit cost basis, and can be extended to cover the additional work necessary.

WILSON RANCH ANNEXATION

Planner Reed noted this is a continuation of the July 22, 2003 public hearing for the Wilson Ranch Annexation. He noted staff completed review of the materials and the applicant has made all requested revisions. The Planning Commission started their review of this project on August 28, 2003, and it was continued to Thursday, September 11, 2003. It is anticipated that the Planning and Zoning hearing will be continued for at least one more meeting. Planner Reed recommended, with the full support of the applicant, that the Board continue this public hearing until the next regular meeting, September 23, 2003. He noted we will need to continue this public hearing until the Planning and Zoning Commission has the opportunity to complete their review.

Planner Reed noted the applicant has two requests at this time. They would like to distribute the current Wilson Ranch Development Manual for Board review. Since this initial draft is being reviewed by the Planning and Zoning Commission, there may be revisions, but they would like to give the Board the opportunity to review this document

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 9, 2003
Page 4 of 16

and offer any concerns and comments. They are also requesting an opportunity to meet with the Board during the next study session to present a power point presentation on this manual.

Attorney Fickel advised the Board negotiations on this project are going well. The next meeting is scheduled for Thursday, September 11, 2003, and further revisions will be made at that time. Once the revisions are made, the entire document will be presented to the Board for review and consideration.

Mayor Karspeck asked if the Board should offer input regarding this manual while it is under consideration by the Planning and Zoning Commission. Attorney Fickel noted it would be more appropriate to allow the Planning and Zoning Commission to complete their review and bring their recommendations to the Board. At that time, the Board will have the opportunity to provide input, make changes, and then the document can be returned to the Planning and Zoning Commission. For the sake of moving this process forward, it would be better to keep questions and comments internal to the Board until the Planning and Zoning Commission completes their review, remembering that the Board will have the final approval of the finished product.

Attorney Fickel noted this document is a work in process, with annual reviews included as part of the process, and, like the Development Code, subject to change and amendment. This document does not need to be perfect, it needs to be something that we can live with once it is approved.

Planner Reed noted the ongoing review process in this document has been supported by the applicant, but this is still being negotiated. He noted the manual also has a missing chapter. The applicant, with the approval of the Planning and Zoning Commission, has contracted with an outside engineer to review the residential standards, and once that review is completed, the chapter will be submitted to the Board for review.

Planner Reed thanked Mr. Wilson for attending the meeting, and for his interest in the proceedings.

Steve Schroyer of McWhinney Enterprise distributed copies of the Wilson Ranch Development Manual to the Board, noting it is with pleasure that they are submitting this document. He noted they have been working closely with staff to reach this point, and anticipate that this manual is a work in progress. Negotiations continue on the annexation agreement, and they are coming along well. He noted they have already had three or more revisions to this document. There have been both minor and major issues that have been addressed, but they feel they are ready to present this document to the Board. He noted they have a power point presentation that highlights the key factors of the Development Manual, and they would appreciate the opportunity to present this to the

Board. This presentation provides a quick overview and summary of each of the twelve chapters of the Manual.

Mayor Karspeck agreed to allow 30-45 minutes for a portion of this presentation at the Study Session on September 16, 2003. Mr. Schroyer thanked the Board and noted they would take as much time as the Board would have available.

Mayor Karspeck noted we need a motion to continue this public hearing at the request of the petitioner.

Trustee Gregg moved to continue the public hearing for the Wilson Ranch Annexation at the request of the petitioner to the Board meeting on September 23, 2003. Second by Trustee Buckingham. All members voted YES.

COLLINS PARK PDP AND PRELIMINARY PLAT.

Mayor Karspeck opened the public hearing for the Collins Park preliminary development plan and preliminary plat. Planner Reed summarized the information provided to the Board for review, noting Collins Park is a 20 acre property, located east of the bypass, north of Gateway Park and East of the Villages of Mathews Farm. This project has been underway for some time and the applicant has been very patient. The ODP was initially approved on April 9, 2002. Since that time, the applicant has been working on the PDP, and this document was referred to the Parks and Open Space Board. In their review of this PDP, they recommended that the two acre neighborhood park be deleted, since in their opinion, this park does not meet the Town's adopted Best Practices for parks. Planner Reed explained the basis of this recommendation.

This recommendation was taken before the Planning and Zoning Commission on August 14, 2003, and the Commission concurred. They are recommending approval of this development with the conditions as stated, and with the deletion of the neighborhood park. Planner Reed noted there was some confusion regarding the fence issue, and he apologized for the delay. Since that meeting, there has been a neighborhood meeting, where an agreement was reached between the applicant and the adjacent property owners regarding a type of fence that would be acceptable.

Planner Reed noted the applicant is requesting approval of the PDP and the preliminary plat, and this will come before the Board again when the final development plan is complete.

Craig Bundy addressed the Board representing the applicant, Jack Collins. He noted that when the ODP was originally approved, there was a two acre park in the center of the subdivision. Following the review by the Planning and Zoning Commission, they

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 9, 2003
Page 6 of 16

responded to the request to remove the park from the project. This project blends well with Gateway and Mathews Farm. He described the project as submitted, and noted that the fence issue has been resolved to the satisfaction of the applicant and the surrounding property owners at the neighborhood meeting.

Trustee Buckingham asked if there will be variation in the placement of the structures on the lots. Mr. Bundy noted there are two thoughts on placement regarding whether to define a street line or vary the placement. At this time, they have not defined a street line, and have the opportunity to stagger the homes. He pointed out that if you have more than the required 25 foot setback for the structures, this eliminates a large part of the back yard. He noted that by illustration, they are not concerned with whether a house has a front porch, or whether the house itself hits the setback. They are trying to allow for variations within the development to meet the needs of the individuals purchasing homes in the area, while maintaining the character of the neighborhood.

Trustee Patrick noted in a development with 60 homes on narrow lots, you have the potential to have 70-150 children. The front and back yards for these homes will be small, and without the neighborhood park, you are leaving the kids with nowhere to go. These are proposed as moderately priced homes, and homes in that price range are typically purchased by families with children. If this park is removed, the only park available to the residents of this subdivision is located on a collector street. He noted that while he agrees with the Parks and Open Space Board that smaller parks are not always valuable, in reality, this park is appropriate to this neighborhood. He noted he would be more interested in seeing a park in every development, accessible to the children who live in the neighborhoods, than in seeing larger parks with more amenities that are not accessible.

Mayor Pro-Tem Foote agreed that there is value in larger parks, but suggested pocket parks have value to the residents in the individual developments.

Trustee Buckingham agreed and noted removing this park is a major variation in how parks in Berthoud have been handled previously. He agreed there is value in the concept of accumulating dedication fees to establish or enhance larger parks that serve several neighborhoods. He noted the new residents in this neighborhood will be residents of Berthoud, and he would like to see the Board find the solution that best meets the needs of these residents.

Trustee Gregg commented on the philosophy of the Parks and Open Space Board. There are two mechanisms to developing parks; we can require parkland dedication or cash in lieu. Up until this time, we have been moving toward smaller parks with no amenities. The Parks and Open Space Board would like to see us collecting cash in lieu from some of the smaller developments to allow us to enhance the larger neighborhood parks. Bein Park is an example of a more developed park that serves a number of homes on the west

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 9, 2003
Page 7 of 16

side of Berthoud. The Parks and Open Space Board is suggesting that if you have four developments in an area, you focus on developing a park on one or two of those developments, and collect cash in lieu from the remaining developments to make park improvements, creating a neighborhood park. .

Mayor Karspeck noted in the original Land Use Plan adopted in 1994, there was a regional trail through this area that went on toward Loveland. More recently, there has been discussion of a front range trail. He asked if this is that trail, and noted we are not giving this trail a prominent position through the area. We have the trail running adjacent to the street, which is not a premier trail location. He noted he would like to see the trail reconfigured.

Planner Reed noted park size is relative. Staff is suggesting the development of 5-8 acre parks specific to one or more neighborhoods, with the use of fees in lieu to enhance these parks. Planner Reed noted one benefit from the GOCO grant for park planning is that we will be able to better plan for neighborhood parks. One of our goals is to look for ways to provide the best and widest range of parks for the residents of Berthoud. He noted larger parks are more cost effective than smaller parks. It is in the Town's best interest to focus on larger neighborhood parks, rather than on smaller parks in every development.

Trustee Buckingham asked what assurances the residents have that these fees will be set aside for park development and not used for general expenses. Planner Reed noted parkland dedication fees and cash in lieu fees are collected for a specific purpose, park development, and those funds are set aside in escrow until there is a need to develop a park in the area where the fees were collected. These funds cannot be co-mingled with other Town funds.

Mayor Pro-Tem Foote noted that when we remove this park, we are assuming the farm land adjacent to this property will develop and there will be another option for a neighborhood park. If the adjacent properties do not develop, the residents of this neighborhood will not have a park.

Planner Reed noted parks are an amenity, similar to streets. The location of parks must be planned in the same manner as streets are planned.

Parks and Recreation Director Saya noted it costs as much to maintain a two acre park as it does to maintain a larger park with more amenities. In addition, the larger park can have a wider range of amenities, including parking and rest rooms. The smaller two acre parks become two acres of open land, they are beautiful, but not as useful as larger parks. If you have four acres for a park, you have more options for amenities, and from a maintenance standpoint, the park is easier to manage. He noted the Parks and Recreation Department is committed to the efforts of the Planning Department. Planner Reed has

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 9, 2003
Page 8 of 16

been working with the Parks and Open Space Board and they are looking at a bigger picture.

Planner Reed agreed that the majority of the Collins Subdivision would not be within 750 feet of the Gateway Park. However, looking at the bigger picture, it would make more sense to enhance the Gateway Park and allow residents of both neighborhoods to use the enhanced facilities. Another option would be to collect fees in lieu and set them aside until another location adjacent to this property develops and at that time, a neighborhood park could be developed.

Mayor Karspeck noted master planning would be valuable for trail management, noting the trail that runs through this property is anticipated to link with the trail that runs through Gateway Park.

Mayor Karspeck opened the floor for public comment.

Bob Revis addressed the Board representing Gateway Park. He noted it is a surprise that Collins Park is not being required to include a park, and that it is being suggested they use the park that is being included in the Gateway Development. He suggested it does not seem far that they are not required to include a park. He also noted they are being encouraged to use a privately owned and funded park that is being provided for the use of the residents, at no cost to the Collins Development.

Major Karspeck noted they will be required to provide cash in lieu of the park if there is no park in the development. Mr. Revis noted the Gateway Park is the only park owned and maintained by a Homeowners Association but available for other developments.

Thomas Hoekstra of 875 North County Road 17 addressed the Board, noting their property is adjacent to this development. He noted they do not want their property used as a park by the children and dogs in this neighborhood. He noted they discussed this issue during the neighborhood and agreed to a five foot fence separating the development from his property. He noted it is dangerous for children, dogs and horses to mix and there are several properties in the area where this can be an issue.

Betty Kennedy of 901 North County Road 17 noted their property is not adjacent to this development, but is within the 500 feet requiring notification. She noted her concern from the beginning of this process has been with the density of this development. This property will have 79 homes on 19.6 acres. If the lots were wider, maybe the kids would have a place to play other than in pastures. They were willing to give up two acres for a park. Now they can increase the number of houses in the development because they do not have to provide that park. This is too high density for property located next to horse properties. She noted they do not anticipate developing their property in the future. They have looked at other properties and have not found anything else they like a well. She

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 9, 2003
Page 9 of 16

noted they did not realize they were in the area planned as a part of the Town. This development has had a negative impact on the value of their property.

Kelsey Kennedy of 901 North County Road 17 addressed the master planning process. He noted the Town Staff, Planning and Zoning Commission and the Town Board are using this process to the detriment of their neighbors. His property is being referred to as undeveloped, and they have a home, barns, irrigation and other amenities in place. This property has always been farming property, and the historic use of the property is being ignored. He noted one member of the Planning and Zoning Commission stated that they "are not concerned with what your property appraises for, the property's value is for development." He suggested the Board aids and abets this process and the attitude about the neighbors. He suggested this process is being used to abuse the neighbors. Planner Reed implied that ultimately someone will change their mind and these properties will develop. He noted they do not have any plans to develop, and suggested that Towns should not provide master plans for properties that are not a part of the Town. He noted he will be taking his complaint to the State, the County and the Governor.

Mayor Karspeck returned this item to the Board.

Trustee Patrick noted the Board does not have the intent to try to make anyone develop against their will. However, the Town has an obligation to plan and make this process as orderly as it can be for future development. If one of the property owners in this area decides to develop, their desire must be honored.

Trustee Patrick noted in his review of the prior minutes, when this process began, the Town was asking for and the developer agreed to an adequate park. He noted there have not been significant changes in terms of the goals and requirements we have for parks. He agreed that the Town needs funds set aside to provide amenities for future parks, but suggested he does not see a reason to do that at the expense of residents of this neighborhood.

Mayor Pro-Tem Foote agreed and noted she would have never voted to approve the ODP for this development without the two acre park. Kids have to have some place to play and requiring them to cross a connector street is not the best option. She noted she would be in favor of approving the preliminary development plan and preliminary plat if it is amended to go back to the original plan with the two acre pocket park for this development.

Trustee Buckingham agreed, noting that nothing he has heard in this meeting provides a larger park for the residents of this development. He agreed there is value in master planning, but until such a plan is in place, the Board needs to provide a park within this specific development.

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 9, 2003
Page 10 of 16

Trustee Gregg noted one comment from the public involved density. He agreed at some point, we need to reduce density as we transition from the residential areas to the agricultural areas adjacent to these developments. Master Planning is important because it aids in this type of decision.

Planner Reed noted the density from the ODP to the current plan only involves 9 additional homes. He noted as we go forward with future master planning of our surrounding areas, the residents of those areas will be included in all the meetings. They will be notified of the meetings, and can come and protect their best interests.

Planner Reed noted there is one area where the neighborhood park is being planned between two developments. Golden Acres, which will be addressed later in this meeting, is adjacent to O'Malley's Farm. The O'Malley's Farm applicant has requested that the Town collect fees in lieu of from Golden Acres, and those fees will be used to enhance the park between the two subdivisions. This will provide funds for exceptional recreational facilities.

Mayor Karspeck noted there are differing opinions regarding park development among the Board, Staff, the Planning and Zoning Commission, and the Parks and Open Space Board, and these differing opinions are being passed on to the developers. This is due to the fact that we do not have an adequate parks master plan. He noted master planning is required by statute, and it is important that we go ahead with the master planning we have envisioned. It is also wise because it allows property owners to know what is planned in their area. He noted his biggest concern is the trail and he would like to see a second look regarding its location.

Mr. Kennedy noted he would be interested in participating in master planning in their area. He pointed out that estate lots would make a better transition to the agricultural lands surrounding Berthoud. He noted this development involves high density housing, and he asked the Board to consider other possibilities. .

Trustee Patrick moved to approve the Collins Park PDP, with the two acre central park as defined in the original ODP.

Trustee Buckingham asked if the motion should include the request to modify the trail. Trustee Patrick noted the original plan had the trail in a different location, and he would recommend the original location be considered.

Planner Reed questioned the appropriateness of putting a ten foot regional trail in front of residential lots. He pointed out that as this area develops, it will interfere with the use of this trail.

Second by Trustee Buckingham.

Mayor Karspeck noted his concern is that we do not have the detail necessary in these documents with these changes, and changes of this magnitude require agreement from the developer. He noted he feels it is vital that we rethink the location of the trail.

Mr. Bundy noted it will be necessary to revise their documents to accommodate the requested changes. Although the overall plan has been modified the essential concept is the same.

Planner Reed noted if the Board is specific enough in the motion, they can incorporate something other than what is reflected on the PDP. There are issues that must be resolved between this development and Mathews Farm, involving 54 additional feet which were dedicated to allow the Town to have a collector street between these two developments. The ODP does not reflect this right of way, or the larger retention pond. Planner Reed suggested the motion include recommendations by Staff. Trustee Patrick noted he would be happy to include the recommendations by staff as long as they do not affect the request to include the neighborhood park.

Trustee Patrick amended his motion to recommend approval of the Collins Park PDP finding that it meets the approval criteria of the Staff Report and with the three conditions recommended by Staff and with additional conditions recommended by the Planning and Zoning Commission and the Board recommendation to include the two acre neighborhood park and look at relocation of the trail. Second by Trustee Buckingham. Mayor Pro-Tem Foote and Trustees Patrick, Thorstensen and Buckingham voted YES. Mayor Karspeck and Trustee Gregg voted NO.

Planner Reed noted a motion necessary for approval of the preliminary plat.

Mayor Karspeck asked if it is possible to move the trail and add the park in conjunction with the FDP. Planner Reed agreed, but expressed concern that there is no other location for the trail. He noted this will be evaluated with the engineer who was instrumental in the initial development of these plans.

Mayor Karspeck asked what the Board would be committing to if they approve the preliminary plat. Planner Reed noted this plat can be approved subject to the inclusion of the two acre park and modification to the location of the trail. This plat will then be modified to include these changes.

Trustee Patrick moved to approve the Collins Park Preliminary Plat with ODP general construction to include the central park, and subject to three conditions as recommended by staff and with the additional conditions recommended by the Planning and Zoning Commission and with the additional condition that a careful

evaluation be made regarding the feasibility of adjusting the location of the trail. Second by Trustee Buckingham. Mayor Pro-Tem Foote and Trustees Thorstensen, Buckingham and Patrick voted YES. Mayor Karspeck and Trustee Gregg voted NO.

Mayor Karspeck called a break at 9:42 p.m.
The meeting reconvened at 9:53 p.m.

PUBLIC HEARING - GATEWAY PARK SUBDIVISION SIGN

Mayor Karspeck opened the public hearing for the Gateway Park Subdivision Sign. Planner Reed noted the applicant is requesting a larger sign at the intersection of Highway 56 and County Road 17 than is allowed by the Town Code, noting the applicant has agreed to meet the conditions recommended by the Planning and Zoning Commission.

Planner Reed noted this type of sign is not “not allowed” by the Development Code, as this issue is not addressed within our existing development code.

Planner Reed explained that our existing development code is silent regarding signs that are not adjacent to streets. Our existing development code allows signs that are 20 square feet adjacent to a street. This sign is 30 square feet. He noted in other development codes where this issue was addressed, this sign would meet the guidelines. He noted this will be a very attractive sign and with stone veneer surface will be appropriate for this location.

Mayor Karspeck opened the floor for public comment.

Trustee Patrick suggested this issue needs to be addressed in our development code to prevent questions of this type in the future. Attorney Fickel noted this is being addressed.

Trustee Buckingham recommended approval of the amendment to the FDP for Gateway Park PUD to allow a monument sign at Highway 56 and County Road 17 as illustrated on the Gateway Park Sign Site Plan with the condition that the material on the backside will be similar to that found on the front side as illustrated on the staff submission. Second by Mayor Pro-Tem Foote. All members voted YES.

GATEWAY PARK REIMBURSEMENT AGREEMENT

Planner Reed noted this item was continued from the meeting held on August 26, 2003. Mr. Revis noted that the changes recommended by the Town Attorney are acceptable pending approval by Gateway.

Attorney Fickel addressed the changes made to the agreement..

Ken Weibel from Mathews Farm asked if this agreement will be retroactive. Attorney Fickel noted this will apply to all current and future developments, with the exception of Mathews Farm, which was sold. The Estates at Mathews Farm Development Agreement will be modified to include this cost, and the money needs to be paid to Gateway. If the money is not paid, the agreement will be amended to read that use of the infrastructure would be subject to the letter of credit requirement we have to insure payment.

Mr. Revis asked if the Villages at Mathews Farm development agreement will be amended to include this charge. Attorney Fickel noted it is not appropriate to change a development code for a development that is already sold. The calculation of the charges will be for both developments, but will be paid under the development agreement for the Estates at Mathews Farm.

Mr. Revis noted the suggested modifications were generally acceptable. Each development needs to be reviewed on a case by case basis, both for payment and the calculation of the fees.

Attorney Fickel noted staff is recommending approval, with the modifications described..

Trustee Gregg noted there was an official objection from the Attorney for M & K Investments and Ken Weibel. He expressed concern regarding the approval of this agreement before the objection is withdrawn. Attorney Fickel noted this agreement is between the Town and Gateway Park. Mr. Weibel will have a copy of this agreement for review.

Trustee Buckingham asked if it is appropriate to resolve this issue this evening. Attorney Fickel stated this was discussed with Attorney Grant, and he noted the Town is not placing any burden on the prior development. He pointed out this was a known obligation when the Villages of Mathews Farm was being developed. However, our goal at this time is to solve this problem equitably for all parties.

Mayor Pro-Tem Foote moved to approve the reimbursement agreement contingent upon the final approval from Gateway. Second by Trustee Patrick. All members voted YES.

GOLDEN ACRES ANNEXATION PETITION AND SUPPLEMENT

Planner Reed noted the purpose of this item is to accept an annexation petition and supplement to the annexation petition and to set a public hearing for October 28, 2003, for this annexation. At their meeting on August 14, 2003, the Planning and Zoning

Commission recommended approval with conditions of the Golden Acres annexation and temporary rezoning.

Margaret Brown of Ehrhart Griffin and Associates addressed the Board, requesting annexation to the Town for this property.

Mayor Foote moved to adopt Resolution 14-03 accepting the Golden Acres Annexation Petition and Supplement and to set a public hearing for October 28, 2003. Second by Trustee Thorstensen. All members voted YES.

CONTRACT TO PURCHASE BULDING

Attorney Fickel noted Administrator White attended a meeting regarding funding for the Berthoud Area Transportation Department and can provide information regarding this meeting.

Administrator White noted Berthoud Area Transportation System (BATS) is being considered for funding under the 5309 federal funds for 2005. Our submission identifies an \$80,000 match and a \$320,000 request for funding. Historically, applicants that pursue those funds receive funding in a range from 25% or up to the full amount. We could get a sum between \$80,000 and \$320,000 in 2005.

Administrator White noted in order to purchase this building, we would need to request funding for future years as well. He noted it was stated in the meeting that it is optimistic to assume funds will be available for the long term for this purchase. He noted if the grant does not work out, the Town could sell the building to resolve this problem.

Administrator White noted one other issue involves who is going to pay the monthly payment. Initially, it was our understanding that the monthly payments would be made by BATS. In a discussion today, they are requesting an increase in the amount the Town provides from the 1% Sales Tax fund for their operation, from \$70,000 to \$100,000, and in addition to that funding, they are asking the Town to pay the monthly payment of approximately \$1,400, totaling \$16,000 annually on the building. He suggested we need to look at this closely before we go forward with this purchase.

Attorney Fickel noted that even though the Town does not currently manage this enterprise, it would be the Town that buys the building. He suggested if we are going to go forward with the purchase, the Board should consider taking over the management of this enterprise.

Administrator White noted as we increase our federal funding sources, it is likely that the Town will be the responsible party for the reports and ultimately, the Town will be

responsible for managing the transportation system. That is something that realistically needs to be considered.

Mayor Karspeck asked if the Town can afford to go forward with this purchase. Administrator White noted that the request from BATS was not received until this afternoon and he has not had an opportunity to assess the availability of funds. In the past, we have looked at the 1% tax to determine how much goes to each of the five recipients in a given year. We need to look closely at that funding to determine whether it is possible for us to provide that amount of funding to BATS.

Attorney Fickel noted in the preliminarily meetings, BATS indicated they could make the payments as long as the Town continued our present funding. He noted this needs to be resolved quickly, and suggested this item be continued to the special meeting next week.

Attorney White noted there is funding for BATS that has been withheld. BATS is working to attain those funds, and if they are successful, there may be adequate funding to purchase the building..

Mayor Karspeck asked that this item be put on the agenda for the special meeting on September 23, 2003.

VOLUNTEER BOARD AND COMMISSION APPOINTMENTS

Trustee Buckingham noted the interview committee for the Historical Preservation Commission interviewed three applicants for the four year term on the Commission, Jeremy Lynch, Sue Brungardt and Herb Meeker. He noted it was the overall desire of the Chair and the Board Liaison to increase the size of the Commission to 7 members, and appoint all three interviewees to the Commission.

Mayor Karspeck asked Town Clerk Cowdin how the ordinance establishing the Commission was written to determine whether the ordinance would have to be changed to increase the size of the Commission. Town Clerk Cowdin noted the current ordinance specifically allows for five members of this Commission.

Trustee Buckingham noted it would be beneficial to have more active members on the Commission. Mayor Karspeck suggested this request be put on the agenda for the next regular meeting and set a public hearing.

Trustee Buckingham nominated Sue Brungardt to fill the vacancy on the Historic Preservation Commission to serve a four year term effective September 1, 2003. With no other nominations and no objections, the appointment was approved.

Attorney Fickel suggested the number of members be defined as a range of members, rather than a specific number. This has been successful on other committees and Boards in the Town.

Trustee Gregg noted the interview committee for the Planning and Zoning Commission interviewed three potential candidates. He nominated Scott Banzhaf and Donovan Haggis to serve on the Planning and Zoning Commission to serve four year terms, effective September 1, 2003. With no further nominations and no objections, the appointments were approved.

Town Clerk Cowdin noted the interviews have not been held for the Parks and Open Space, and noted the applicant was an incumbent. Mayor Karspeck noted it was recommended that incumbents could be reappointed with interviews. It was decided that this item will be put back on the agenda for the next meeting.

SET PUBLIC HEARING - CURFEW IN PARKS

Mayor Karspeck noted the Berthoud Police Department is requesting this change, and presented two options for consideration. The first option requests that the hours in all Town parks be changed to "Sunrise to one-half hour after sunset, unless written permission has been granted by the Town for a special event." The second option allows allows residents to play tennis after dark under the lights.

Trustee Gregg moved to set a public hearing regarding a curfew for all Berthoud Public Parks for September 23, 2003. Second by Mayor Pro-Tem Foote. All members voted YES.

With no further business, meeting adjourned at 10:45 p.m.

Mayor Milan Karspeck

Deputy Town Clerk Charlene Reed