

TOWN OF BERTHOUD  
BOARD OF TRUSTEES  
REGULAR MEETING  
TUESDAY, FEBRUARY 8, 2005  
Page 1 of 4

The Board of Trustees for the Town of Berthoud met for a regular meeting on Tuesday, February 8, 2005 in the Board Room of Town Hall. Mayor Milan Karspeck called the meeting to order at 7:00 p.m.

MEMBERS PRESENT: Mayor Milan Karspeck  
Mayor Pro-Tem Don Ashcraft  
Trustee Louis Gervasi  
Trustee Michael Patrick  
Trustee David Gregg  
Trustee Glen Buckingham (arrived 7:03 p.m.)

MEMBERS ABSENT: Trustee Peder Thorstensen

STAFF PRESENT: Town Administrator Jim White  
Public Works Director Rich Elliott  
Town Planner Wayne Reed  
Town Attorney Bruce Fickel  
Deputy Town Clerk Charlene Reed

**PLEDGE OF ALLEGIANCE**

Mayor Karspeck led the pledge of allegiance.

**CITIZEN PARTICIPATION**

There were no items presented from the audience.

**REPORTS**

Administrator White noted there is a Board meeting scheduled on Wednesday, February 9, 2005 to review the 2004 Action Plan and the Capital Improvement Plan for the Wastewater Department. The meeting will be held in the Board room at 7:00 p.m.

Administrator White noted he has contacted John Gallagher regarding the rate study and he can meet with the Board on February 21, 2005. Mayor Karspeck suggested that this be discussed after the meeting on Wednesday.

Administrator White reported there is a Main Street Design Committee meeting scheduled at 5:00 p.m. on Friday, February 11, 2005 at the Community Center. This meeting will be an opportunity for public comment on the street scape project.

Administrator White noted there are two meetings scheduled on Saturday February 12, 2005. The Welch Lateral Ditch meeting will be held at 9:00 a.m. and the McIntyre Ditch meeting will be held at 10:30 a.m. Mayor Karspeck, Administrator White and Public Works Director Elliott will attend the meetings.

Administrator White advised the Board he will be attending the Colorado City and County Managers Association (CCCMA) Winter Conference in Glenwood Springs from February 17-19, 2005.

Administrator White noted the Board Retreat scheduled for March 1, 2005. Attorney Fickel offered to allow the Board to hold the meeting at his home. Board members agreed and thanked Attorney Fickel for allowing them to meet at his home.

Attorney Fickel reported that on December 31, 2004, William B. George, our former Public Works Director, filed a complaint charging discrimination with the Colorado Civil Rights Division. The claim

was forwarded to the Equal Employment Opportunity Commission. He indicated that while his performance was good, he was forced to resign or be scheduled for a hearing. Mr. George resigned and filed his complaint based on age discrimination. The EEOC investigated the claim and closed the file after issuing a determination that they were unable to conclude that the information obtained establishes violations of the statutes. Mr. George has 90 days to file a lawsuit.

Attorney Fickel reported that the hearing regarding the termination of Brian Saya was held on January 28, 2005. This matter was filed with our insurance carrier and they appointed an attorney to act on behalf of the Town. Attorney Fickel noted he participated in the hearing representing the Board of Trustees. The Town hired a Hearing Officer and the first issue addressed was whether the Court has jurisdiction over the case. The Hearing Officer determined that the court did not have jurisdiction because the claim was not filed in the required time frame, and he dismissed the complaint. Attorney Fickel noted that typically, in this situation, the court will go ahead and conduct the hearing, reserving judgment regarding the jurisdictional issue. That is what was anticipated, but the judge determined that due to the evidence supporting the late submittal, he was no longer able to proceed with the case.

Attorney Fickel reported that the Town was involved in a sewer backup claim filed by Mr. and Mrs. Sloan. This was taken to court and the Town prevailed based on legal defenses which are available to a municipality. The Court found no negligence on the part of the Town. He noted it is up to the Board to make the decision regarding whether we want to contribute to the Sloan's loss, and asked that this be considered in the Executive Session.

#### **CONSENT AGENDA:**

The Consent Agenda consisted of the minutes of January 25, 2005 and the bills allowed for January 2005. Trustee Patrick asked that the minutes be removed from the Consent Agenda to be amended.

**Mayor Pro-Tem Ashcraft moved to approve the Consent Agenda. Second by Trustee Gervasi. With no objection and by unanimous consent, the Consent Agenda was approved.**

#### **PROCLAMATION- SCHOOLS TO CAREERS**

Mayor Karspeck read the proclamation designating February, 2005 as Schools-to-Careers month.

#### **REQUEST FOR WAIVER OF APPLICATION FEE FOR VARIANCE REQUEST**

Planner Reed noted the applicant is not present. Mayor Karspeck suggested this item be delayed until later in the meeting.

#### **PUBLIC HEARING FOR ORDINANCE RE PERMANENT WATER CONVERSION.**

Administrator White reported that on January 10, 2003, the Board of Directors of the Northern Colorado Water Conservancy District approved a policy regarding the conversion of Temporary Use Permits. This policy discontinued the practice of renewal for Temporary Use Permits. All current Temporary Use Permits must be converted to the permanent Section 131 Contract by March 1, 2005, which is also the date of expiration of Temporary Use Permits.

Trustee Buckingham asked why the Ordinance is only for six acre-feet. Administrator White noted the six acre-feet referred to in the document is for water that we currently have under a temporary agreement for water purchases by the Town in 2004.

Trustee Buckingham also asked for clarification of the definition of water under item #3, asking if we are agreeing to less water than was purchased. Attorney Fickel explained that this is standard wording for

contracts from the Northern Colorado Water Conservancy District, and their commitment is that they will give 1/310,000 of whatever water is available. This is consistent with the definition we used when we purchased the water.

Mayor Karspeck opened the floor for public comments and there were no comments. He returned the item to the Board..

**Trustee Buckingham moved to approve Ordinance 1007 to secure an Annually Renewal Perpetual Water Contract for the Right to Use Colorado Big Thompson Project water under C.R.S. 37-45-131. Second by Trustee Gregg. All members voted YES..**

#### **WILSON RANCH I-25 WASTEWATER TREATMENT PLANT PROJECT**

Public Works Director Elliott explained that staff has worked with The Engineering Company, NFRWQPA and McWhinney Enterprises to make a final treatment selection for the Berthoud Regional Water Treatment Facility. He presented a table which included the individual evaluation criteria scores for each of the submittals. Based on the ranking, the ABJ-ICES proposal received the highest total with 85 points. He explained that it is staff's conclusion that two manufacturers, ABJ-ICES and Aero-Mod, are the preferred manufacturers to supply a treatment facility that will meet our needs.

Public Works Director Elliott noted the Colorado Department of Public Health and the Environment has received our site application.

Board members requested clarification of the points system and Public Works Director Elliott and Brian Zick of The Engineering Company explained what items were included in each category. Mr. Zick explained that either of these three systems will meet the needs of the Town. Once the Town selects the system, we will move forward and select a contractor to build the plant. That contractor will then negotiate with the manufacturer we select.

Trustee Patrick noted that Aero-Mod Inc. is lower than ABJ-ICES in price. Mr. Zick noted the difference in cost between the two systems is approximately \$153,000. Trustee Patrick noted that due to the current financial concerns of the Town, if the system with a lower cost is acceptable, it would be better to move in that direction. He noted he would like to have an articulated reason for selecting a process that is \$153,000 more expensive. He agreed if the reference checks on the lower cost system are not acceptable, then it would be agreeable to go with the higher cost alternative.

Public Works Director Elliott asked that the Board allow staff to make the final selection between the two vendors, following the completion of reference checks.

**Trustee Patrick moved that subject to staff's confirmation of references, staff be authorized to make the final selection of either ABJ-ICES or Aero-Mod Inc. for the wastewater treatment process at the Regional Wastewater Treatment Facility site. The motion was seconded and passed by unanimous consent.**

#### **SET PUBLIC HEARING – FICKEL FARM 2<sup>ND</sup> PUD REZONING**

Planner Reed asked the Board to set the Public Hearing to rezone from for Fickel Farm 2<sup>nd</sup> PUD Rezoning.

**Trustee Patrick moved to set a public hearing to rezone approximately forty acres of Fickel Farm 2<sup>nd</sup> PUD from AG to PUD. Second by Trustee Buckingham. With no objection and by unanimous consent, the public hearing was set for February 22, 2005.**

**REQUEST FOR WAIVER OF APPLICATION FEE FOR VARIANCE REQUEST**

Planner Reed explained that he reached the applicant by phone, but Mr. Bevins was unable to attend and asked that this item be rescheduled.

**MINUTES OF JANUARY 25, 2005**

Trustee Patrick asked that several specific comments be added to the section of the minutes regarding the Public Hearing for the Quick Lube PUD Final Development Plan. He explained the changes and Board members agreed.

Trustee Patrick moved to approve minutes as revised. Second by Trustee Buckingham. With no objection, the minutes passed by unanimous consent.

**EXECUTIVE SESSION FOR NEGOTIATIONS AND LEGAL MATTERS**

Mayor Karspeck noted the Board needs to convene in Executive Session regarding several matters and will adjourn from the session. With no objections, the Board adjourned to an Executive Session at 8:11 p.m.

The Board reconvened and adjourned at 9:45 p.m.

---

Mayor Milan Karspeck

---

Deputy Clerk Charlene Reed