

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
TUESDAY, JULY 26, 2005
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The Board of Trustees for the Town of Berthoud met for a regular meeting on Tuesday, July 26, 2005 in the Board Room of Town Hall. Mayor Karspeck called the meeting to order at 7:05 p.m.

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

MEMBERS ABSENT: Trustee David Gregg

STAFF PRESENT: Town Administrator Jim White
Public Works Director Tony Huerta
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 from the audience.

REPORTS

Trustee Buckingham noted the July meeting of the Historic Preservation Meeting has been cancelled.

Trustee Gervasi reported on the BATS meeting held on Wednesday, July 20, 2005. He noted that meetings are brief, poorly documented, and the overall management of this organization needs to be tightened up. He noted would like to get more interaction with the Golden Links Board, since they are the controlling organization for BATS.

Administrator White announced that we have hired a new Utility Billing Clerk, Sandra Sheffler. She will be joining staff on August 8, 2005.

Administrator White noted Berthoud Clean-up Day is scheduled for August 20, 2005. Further information will be provided as it is available.

CONSENT AGENDA

The Consent Agenda consisted of the minutes of the regular meeting held on July 12, 2005, and the special meeting held on July 19, 2005.

Trustee Buckingham moved to approve the Consent Agenda as submitted. Second by Mayor Pro-Tem Ashcraft. The motion passed unanimously.

**RESOLUTION RE ANNEXATION PETITION
FOR LARIMER COUNTY ROAD 19**

Planner Reed noted the Town requested cooperation from the property owners along Larimer County Road 19, from Highway 56 to the north boundary of the Estates at Matthews Farm. The property owners for Annexation No. 1 have signed the annexation petition and staff continues to work with the owners for Annexations No. 2 and 3, and will bring those to the Board at a later date.

Planner Reed noted this is being done at no cost to the Town, and we are not changing the use of their property. This has always been a road and will continue to be a road.

Mayor Karspeck noted the purpose of this item is to set the public hearing for September 13, 2005.

Trustee Patrick asked if the other two annexation petitions will be considered at the September 13, 2005 meeting. Planner Reed noted we will be unable to do that because of the publication requirements for an annexation. Each segment will have to be signed and advertised, and will follow this at future meetings.

Mayor Pro-Tem Ashcraft asked what maintenance will be required for this roadway. Planner Reed noted the Town will be responsible for keeping the road paved and repaired. We will also be responsible for plowing this in the winter.

Mayor Pro-Tem Ashcraft asked if there is a way to calculate maintenance costs for roads that we annex, and he asked if we are discussing this with the Street Department. Planner Reed noted the Street Department is involved in reviews when we look at annexing roadways.

Trustee Buckingham moved to accept the Larimer County Road 19 Annexation No. 1 Petition and pass Resolution 10-05 setting a public hearing date for September 13, 2005. Second by Mayor Pro-Tem Ashcraft. The motion passed unanimously.

REVERE PROPERTY SKETCH PLAN

Planner Reed noted the developers of the Revere Property are requesting that the Board of Trustees review and discuss a sketch plan for a proposed mixed-use center known as "Revere Commercial Development" on approximately 37 acres on the Northwest Corner of Highway 56 and the 287 Beltway. The proposal is to rezone to a Planned Unit Development (PUD) for mixed use, including commercial, office and limited residential properties. This would be a significant commercial development for the Town at a gateway for the community.

Planner Reed noted one specific item being requested is a reimbursement agreement for the extension and over sizing of the sewer line connecting this property and others that will be developing in the area.

Planner Reed summarized the staff report, and explained that the developer is asking for a response to the following questions:

1. Will the Town support a development agreement to assure reimbursement for the funding and construction (and possibly the design) of the sanitary sewer mainline concurrently with the approval of the rezoning?
2. Does the Town have adequate capacity to provide the project with water and wastewater?
3. Will the Town support a quality Mixed Use Development where residential uses are integrated directly into the commercial areas?

4. Will the Town support the rezoning of the property to Mixed Use PUD with only an Overall Development Plan to establish permitted uses, list maximum densities and identify necessary services and facilities, understanding that a site specific plan (preliminary development plan) will follow at a later date, including architectural elevations, utility studies, drainage study, fiscal impact report, traffic studies, environmental reports, etc.?

Ken Merritt of Landmark Planners, Engineers and Architects addressed the Board representing Revere Properties, explaining that this property was formerly known as the Smith Property, and was annexed approximately three years ago. They are asking to rezone the property from T Transitional to Mixed Use PUD with an ODP consistent with the requirements set forth in the code. They are asking to enter into a development agreement with the Town obligating the developer Revere Property to extend approximately two miles of offsite sewer to the northwest quadrant of the Town at their expense. They would be responsible for the design, the acquisition of easements and the construction of that line. They are asking for a reimbursement agreement that would obligate future developments along the sewer line to reimburse their proportionate share of that line.

Mr. Merritt noted this plan is purely conceptual at this time. He presented their vision for this area, including retail, office and limited residential properties, and including a major entertainment anchor. This would be a unique lifestyle community where people could live, work and shop. There is nothing like this in Berthoud at this time.

Mayor Karspeck opened the floor for public comment and there was none.

Trustee Thorstensen noted that in the original presentation, there was to have been a convenience store on this property. He asked if that was to be included. Mr. Merritt responded that this was originally intended to be a neighborhood convenience store, with more residential. This is a completely different commercial development. There will be food and retail services, and may possibly be a fueling center, but it will be different than the original proposal.

Trustee Thorstensen agreed that the Town would be willing to support a reimbursement agreement; he noted it is difficult to know if we can provide water and sewer without first knowing what is needed. He liked the mixed use, and suggested this would be the hub of Berthoud for this area and has appeal.

Trustee Patrick noted there needs to be more detail before the Board can come to specific conclusions. He noted the Town has, in other instances, supported reimbursement agreements for offsite improvements. If this is of the same nature and quality that we have previously seen, that would be something that we would consider.

Trustee Patrick noted the question regarding the adequate capacity to provide water and wastewater should be referred to staff. He agreed that it depends on the capacity needed.

Trustee Patrick noted the response to the questions regarding Town support of a Mixed Use development would be dependent on how the project is integrated and what quality development we have at the other end. In basic concept, we have seen this in other presentations without opposition. The issue is what the development looks like and the function and quality.

Trustee Patrick addressed the final question noting that these are interesting and colorful pictures, but they do not bind either party to anything. He noted this would be a significant change in zoning without a commitment from the applicant that they would do the development. This depends on the kinds of representations we hear from the applicant.

Mr. Merritt responded that extending services is a core issue. The Town is currently going forward with the design of an extension of this sewer line and the plan is to begin construction as early as October. They

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are willing to assume the responsibility for this project, both to benefit this project and others who are waiting to develop in the area. He noted they originally wanted to rezone the project to commercial, in return for a development agreement that obligated them to provide the funding for this infrastructure. After discussion, it was determined that straight zoning would allow them to have specific use by rights and the project could develop without the quality that the Town normally requires. By offering to develop this property as a PUD, and by offering to obligate themselves to provide the sewer line, they are allowing the Town to have control over how this property is developed. They are going to outlay a significant amount of money for an undetermined amount of time, but as a PUD, there are no uses by right, and the ongoing development will be presented to the Board for approval.

Mr. Merritt noted they do not want to debate at this time, the specifics regarding this plan. They want to bring those components back to the Board as part of the PUD. Regardless of who completes the final development, the Board has the ability to determine what will be done on this property.

Trustee Patrick recognized that this property once rezoned would have a dramatically increased value. When you look at ODP that allows permitted uses and densities, then this property has the capability to be used in a huge number of ways, even consistent with someone coming back in to ask the Board under PUD for specific permission for specific uses. This would permit this area to have a whole range of expensive uses.

Mr. Merritt noted they are not asking for permitted uses. They are asking for allowed uses, discretionary uses, allowed by the Board. Nothing would be permitted without a discretionary action. He noted they are not asking for permitted uses. They want to know what the Board would consider in future PDP's which would come before the Board.

Trustee Patrick noted that would make the Board more comfortable and willing to consider rezoning of the property.

Mayor Pro-Tem Ashcraft agreed to allow reimbursement agreement. Regarding adequate capacity for water and wastewater, we would have to know what is needed before answering the question.

Mayor Pro-Tem Ashcraft noted he likes this sketch plan which is presented for the mixed use development. This brings in less people and brings commercial development for our current population base. He noted he likes that concept. He noted the photos provided show projects that are quality construction, and pedestrian friendly, and he would like to see that for Berthoud.

Mayor Pro-Tem Ashcraft noted as long as the Town has control over the overall outlook of this property in the future, then he would be comfortable with rezoning this property.

Mayor Pro-Tem Ashcraft expressed concern about the high density of the commercial on the northwest corner surrounded by lower density properties. However, we are bringing in less residential and could resolve that issue with buffers.

Mayor Karspeck noted he is very supportive to this sketch and the concepts provided, including the buffer, the trail connections, the pedestrian friendliness and the potential for a theatre element. He noted he is supportive of mixed use developments of this type. He agreed the Town would support a reimbursement agreement, and felt we have adequate wastewater capacity and water capacity, depending on the needs. He noted he would definitely support a mixed use development of this type, and would support the rezoning of the property as it is proposed and with ultimate control.

Trustee Gervasi agreed with prior discussions, but suggested he would like to see more detail. He agreed that the Town would support a reimbursement agreement. He agreed with comments regarding water and wastewater and the comments regarding the mixed use development. He expressed concern that if we do

not provide specifics in the beginning, there may be conflicts as we go along. He agreed he would support the rezoning.

Trustee Gervasi asked what impact this would have on the buffer. Planner Reed noted if this develops as a commercial project, the buffer requirement is waived. He noted they are landscaping the area that would normally be a buffer to make this area attractive.

Trustee Buckingham noted the uses proposed would be ideal for the community. He noted the Town of Berthoud takes in roughly half the retail sales tax that other Town's our size take in, and this has been a focus of the Board to make improvement in that area and commercial of this nature will assist in that goal.

Trustee Buckingham agreed to the reimbursement agreement, and felt we have adequate water and sewer capacity, or can make it available. He noted whether he supports a mixed use development would depend on the amount and design of the mixed use.

Trustee Buckingham noted if the ODP does not attempt to introduce residential construction of a quantity, density of quality inconsistent with the commercial/retail center, feelings would be better. He expressed a concern that when one introduces a large quantity of residential property into a commercial or retail development you introduce an urban space and he would prefer to see urban type development occur in the core town, rather than on the edge. He expressed concern that there are 340,000 square feet of commercial space and 200,000 square feet of residential. That would be 40% of the building in the center, and would be excessive. He suggested the Board should be careful about how much residential we allow in a commercial node.

Trustee Buckingham noted when entering into a non-binding agreement, the need to have a high degree of scrutiny to what is done in the area. He suggested there is a fine conceptual framework to consider.

Mr. Merritt noted this will be more commercial and less residential. He would not expect units to be as large as suggested, and he noted they will watch the mix of residential compared to commercial.

Trustee Buckingham noted this is something that is not available in Berthoud, and if you had less residential, he would be more supportive.

**RESOLUTION FOR GOCO/BERTHOUD
ELEMENTARY PLAYGROUND PROJECT**

Administrator White noted the Town of Berthoud and the Little Thompson School District, specifically the Berthoud Elementary School and their PTA, have been working to request a grant from Great Outdoors Colorado (GOCO). The grant was awarded, and the Town will act as the grant recipient for the award in the amount of approximately \$142,000, with additional cash and in-kind contributions of approximately \$77,000, additionally, the Town of Berthoud waived the raw water dedication fee and the tap fee as further in-kind contributions. The purpose of this grant will provide additional park and recreation facilities on the north end of Berthoud, which will be shared between the school district and the residents of the Town of Berthoud.

Administrator White noted he is asking the Board to approve the resolution in support of the agreement between the Town of Berthoud and the State Board of the Great Outdoors Colorado Trust Fund.

Board members requested clarification regarding the additional cash and in-kind contributions. Administrator White noted the Town provided in-kind contributions of the waiver of the raw water dedication fee and waiver of the tap fee. We do not anticipate any further cash contributions from the Town.

Trustee Buckingham suggested the Town provide further in-kind contributions in lieu of further cash contributions and commended Administrator White for pursuing this grant.

Mayor Pro-Tem Ashcraft noted his company has volunteered to do trenching and other labor for this project, but he is not contracting and will not be paid for his efforts.

Trustee Buckingham moved to approve the Resolution 11-05 to sign the contract authorizing the expenditure of funds necessary to meet the terms and obligations of the grant agreement and application. Second by Trustee Thorstensen. The motion passed unanimously.

RESOLUTION REGARDING HIGHWAY 287

Administrator White noted this request was made by Mark Chaffee, the President of the Berthoud Chamber of Commerce to cast a more positive light on the stretch of Highway 287 by designating that area the “Berthoud Beltway”, rather than the Bypass. He noted CDOT has not expressed any opposition to the local designation.

Mayor Karspeck read the proposed resolution.

Mayor Pro-Tem Ashcraft noted this is not fancy wordage. This is an economic development corridor, and will have a positive impact on the Town. He supported the new name.

Trustee Buckingham thanked the Chamber for bringing this to the Board’s attention, noting this is more digestible than the bypass. He also thanked CDOT for not taking offence when the Town considered the possibility of changing the name.

Trustee Patrick suggested Beltway has reference to Washington DC, but he would prefer the Beltway to the Bypass. He noted he would prefer the Parkway to the Beltway, but agreed to the consensus.

Mayor Pro-Tem Ashcraft suggested one important key to this is the signs that refer to Berthoud, and he suggested a sign that says “Historic Downtown Berthoud.”

Trustee Gervasi felt Parkway would be more appropriate to Berthoud and he suggested he would prefer to see that rather than Beltway.

Chamber President Mark Chaffee addressed the Board, noting the idea is to get away from bypass and shed a more positive light. Beltway gives the Town a definition. Parkway would be a good name if in fact the area was developed as a parkway. He felt either would be appropriate.

Trustee Buckingham moved to approve Resolution 12-05 to designate the newly constructed portion of Highway 287 from south of Loveland to North of Longmont as “the Beltway.” Second by Mayor Pro-Tem Ashcraft.

Trustee Gervasi moved to amend the previous motion to change the name from “the Beltway” to “the Parkway.” Second by Trustee Thorstensen.

Mayor Karspeck noted we have significant buffers planned for the area that could be developed as parkland.

Trustee Thorstensen noted the separator feels more like a parkway, rather than a beltway.

Trustee Patrick noted that he likes the visual flavor of parkway, since it conjures up an image that is positive. He noted he would like to see the Town to be able to do the kinds of things that places with

higher municipal income do to make thoroughfares attractive. He felt naming this the parkway would be incentive to make this area look like a parkway.

Planner Reed noted we do not contemplate eliminating the buffer and anticipate designing this area with a rural flavor that would be more similar to parkway.

Trustee Patrick asked the Chamber representatives if there is a preference for beltway over parkway.

Mr. Chaffee noted he would endorse a move to parkway if that is the direction for that land and that development. That would also have a positive connotation.

Trustee Patrick suggested the resolution be modified to change all references from the beltway to the parkway.

Mayor Karspeck called for a vote on the amended motion and it passed. The revised resolution to call the stretch of roadway "the Parkway" was approved by a unanimous vote of the Board.

**APPOINT INTERVIEW COMMITTEE FOR VOLUNTEER
BOARDS AND COMMISSION VACANCIES**

Administrator White noted staff has advertised for three weeks for the following openings:

Planning & Zoning Commission – one opening for an in-town resident

Parks & Open Space Board – one opening for an in-town resident

Historic Preservation Commission – 3 openings for in-town or out-of-town residents (Out-of-town residents may fill two of the three vacancies)

Administrator White noted that all members that have terms that expire August 31, 2005 have been notified by letter that their term is up and they need to notify the Town in writing if they wish to be reconsidered for their current position. We presently have one letter of interest for Planning & Zoning, no letters for Parks & Open Space, and two letters of interest for the Historic Preservation Commission.

Trustee Buckingham noted in the past, the Chairman of the Historic Preservation, the Board Liaison and the Museum Director have served as the interview Committee, and he asked if the Board would like to continue that practice.

Town Clerk Cowdin noted the Administrative Resolution suggests that members of the interview committee shall consist of an odd number and should be rotated from year to year. She noted we accept applications year round, and keep them on file if we have openings on the committees.

Mayor Karspeck suggested the Board liaisons would be more qualified to serve on the interview committees for the Committees and Commissions, since they participate and are aware of what is needed in each group.

Mayor Pro-Tem Ashcraft suggested we continue to advertise to see if we can generate more interest in these openings.

Mayor Karspeck suggested we continue with the practice of using the Board liaison, the Committee/Commission chair, and the staff representative to serve on the interview committees.

Mayor Karspeck moved to appoint Mayor Pro-Tem Ashcraft, Trustee Gregg, Trustee Patrick, Planning and Zoning Chairman Chris Thorne and Wayne Reed to serve as the interview committee for the Planning & Zoning Commission; Trustee Gregg, Chairman Norma Banzhaf and Parks and

Rec Director Jeremy Olinger as the interview committee for the Parks and Open Space Board, and Trustee Buckingham, Chairman Thomas Meyer and Museum Director Tom Vaughan as the interview committee for the Historic Preservation Commission. Second by Trustee Buckingham. The motion passed unanimously.

REQUEST FOR A WAIVER OF POLICY RE: PURCHASE ORDERS

Town Administrator White noted our current purchasing policy stipulates that all purchases of \$100 or more require a purchase order prior to ordering any products. He is asking for a waiver to the policy to require purchase orders for purchases over \$200, rather than the \$100. He noted we will continue to closely monitor expenditures in light of the Town's continuing financial situation, including monthly financial statement review with each department manager and utility superintendent, careful observation of expenditures and requiring justifications for all expenditures.

Trustee Gervasi expressed concern that we are considering doubling the current limit.

Trustee Buckingham asked how the process will work if we change the limit for purchase orders.

Administrator White noted that each Department Manager/Supervisor has funds available for their use for purchases. At the present time, if a purchase is more than \$100, they must request a purchase order before actually placing an order. With this change, they would be allowed to make smaller purchases without obtaining a p.o.

Mayor Karspeck noted he is not concerned, because it is up to Administrator White to make this work, and if we have problems with this change, we can always return the limit to \$100.

Trustee Buckingham moved to approve the request for a policy waive to allow expenditures under \$200 without a purchase order and to require purchase orders for all expenditures of \$200 or greater. Second by Trustee Patrick. The motion passed unanimously.

BERTHOUD/JOHNSTOWN IGA

Administrator White noted the 208 Board set a requirement that the Town of Berthoud and the Town of Johnstown develop and IGA prior to being allowed to go forth with the process of putting a wastewater plant at I-25. The Town has addressed this requirement in two ways. One path was to challenge the appropriateness of the requirement, and the second was to pursue the IGA with Johnstown.

Administrator White noted the Board and Town Staff still object to the requirement that the two towns have an IGA, and we will have further opportunities to discuss that with the 208 Board in the future. However, we have been actively pursuing the agreement with Johnstown, and made progress with that agreement during a meeting in Johnstown which was held on Monday evening. The agreement presented this evening is the proposed agreement that was approved by the Town of Johnstown at that meeting.

Attorney Fickel noted there were specific changes that were agreed to at the meeting on Monday that were not made in the agreement and he outlined those specific changes.

Mayor Karspeck noted the goal for the Board is to get this agreement approved by both Boards and present it to the 208 Board for approval on Thursday.

Trustee Ashcraft noted this was not an appropriate request, but he agreed this is a good agreement and a good way to put this to rest.

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Trustee Patrick extended appreciation to the Town Attorney for his work in developing this agreement and serving as the spokesperson for the Town during the negotiations. He shared the concern that this was an inappropriate request by the 208 Board, but felt it is always beneficial to have an agreement between two neighbors that will benefit all the residents in the area.

Trustee Patrick noted specific changes were made at the meeting on Monday and not made to the document. He outlined those changes.

Mayor Karspeck noted Exhibit A shows an overlapping area between Mead and Berthoud, and we are not required to have an IGA with Mead. Attorney Fickel agreed and noted this is one of the problems with this requirement. Johnstown and Berthoud are being singled out to develop an agreement and other parties that are involved in the area are not. He suggested if there is a policy requiring agreements between entities, it should include all parties.

Attorney Fickel noted good things can come from this agreement. The benefit to the residents is that it will allow them to have more cost effective service.

Board members reviewed the map provided with the agreement, and it was determined that it was developed by Johnstown, but without being reviewed and agreed upon by all parties. Trustee Patrick suggested that this map should be reviewed by the staffs and consultants for both Johnstown and Berthoud and then once everyone is in agreement, the final document needs to be signed by both Mayors as a binding part of the agreement.

Trustee Patrick moved that the Board approve the Intergovernmental Agreement between the Town of Berthoud and the Town of Johnstown in the form provided by Attorney Fickel, subject to the clarifications described and subject to confirmation by the respective Town's staff and consultants as to the accuracy of Exhibit A, and after such confirmation be approved by all parties to the contract. Second by Trustee Buckingham. The motion passed unanimously.

With no further business before the Board, the meeting adjourned at 10:30 p.m.

Mayor Milan Karspeck

Deputy Town Clerk Charlene Reed