

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
APRIL 25, 2006
Page 1 of 1

The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, April 25, 2006 in the Board Room at Town Hall. Mayor Karspeck called the meeting to order at 7:00 p.m.

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

MEMBERS ABSENT: Trustee Glen Buckingham

STAFF PRESENT: Town Administrator Jim White
Town Planner Wayne Reed
Police Chief Glenn Johnson
Town Attorney Bruce Fickel
Deputy Clerk Charlene Reed

PLEDGE OF ALLEGIANCE

Mayor Karspeck led the pledge of allegiance.

CITIZEN PARTICIPATION

Ralph Nelson addressed the Board regarding the traffic on 4th Street. He noted with Trails at Sugar Creek will be opening Longs Peak and Water Avenue for additional traffic that will flow into 4th Street. He noted with additional traffic, problems will increase and residents of that street will be affected. He encouraged the Board to look for a solution before these two streets are opened.

Mayor Karspeck noted there will be further public hearings when the final development plan for this project is considered further.

Dorothy King introduced Janelle Goad the new director for the Chamber of Commerce.

REPORTS

Trustee Thorstensen reported that the Library Board met on Thursday, April 20, 2006 and they have decided to move forward with the formation of a Berthoud Library District. They will be actively pursuing this and hope to get this on the November ballot.

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
APRIL 25, 2006
Page 2 of 2

Mayor Karspeck noted the Tree Board held the annual Arbor Day celebration on Saturday, April 22, 2006 and the Town of Berthoud received our 23rd annual Tree City award. He noted this was a very successful day.

Administrator White distributed calendars for members to indicate availability for an upcoming Board Retreat. Attorney Fickel has volunteered his home as the site for the retreat.

Administrator White announced that a new staff engineer has been hired. Stephanie Brothers is currently employed with City of Greeley and has accepted this position. She plans to begin work in Berthoud on May 8, 2006.

Administrator White noted construction is ongoing in the front office to provide quiet office space for the Deputy Town Clerk. This construction is being done by members of the Parks and Recreation staff. He noted staff did obtain a building permit before beginning this project.

Administrator White distributed copies of the Larimer County Open Lands highlights for 2005 for Board review.

Attorney Fickel distributed information on quasi judicial issues that are considered by the Board and explained what is and is not allowed. On quasi judicial topics, all discussion and decisions should be made in official Board meetings. Board members are scheduled for training and he encouraged Board members to contact his office with questions until training can be done.

Mayor Karspeck noted there is a CML Elected Officials Workshop scheduled for Saturday, May 6, 2006, and that is a good resource for training for Board members.

CONSENT AGENDA

The consent agenda consisted of the liquor license renewal for Kwik Korner.

Mayor Pro-Tem Ashcraft moved to approve the Consent Agenda as submitted. Second by Trustee Gervasi. Trustee Patrick abstained and all other members voted YES.

RECOGNITION AWARD – RAY SCOTT
RETIRING POLICE CHAPLAIN

Administrator White noted Ray Scott has served both the Town of Berthoud Police Department and the Berthoud Fire Protection District as Chaplain. Administrator White

commended Mr. Scott for his service. Mayor Karspeck presented Mr. Scott with a plaque.

TEMPORARY WATER COVEYANCE RESOLUTION

Administrator White noted the Bureau of Reclamation requires formalization of the Town Board's approval of the Temporary Water Conveyance contract. The Town of Berthoud has signified this approval by Resolution over the past several years.

Mayor Karspeck read the title of the proposed resolution.

Mayor Pro-Tem Ashcraft moved to approve Resolution 5-06 in support of a temporary water conveyance contract for the conveyance and temporary storage of water through the facilities of the Colorado Big Thompson Project during the year 2006. Second by Trustee Gervasi. The motion was approved unanimously.

**CONTINUATION OF PUBLIC HEARING – KNIEVEL ANNEXATION
REZONE, REVIEW AND APPROVAL OF HERON LAKES AMENDED
OVERALL DEVELOPMENT PLAN**

Mayor Karspeck reopened the public hearing regarding the Knievel Annexation, Rezone, Review and Approval of Heron Lakes Amended Overall Development Plan.

Planner Reed presented information regarding this project. He noted Kirby Carroll, the Town's Environmental Consultant, is in the audience and he will be presenting recommendations regarding this project. We also have Amy Ryel from the Department of Wildlife present and she is available to discuss their recommendations.

Planner Reed presented an overview of the project.

Trustee Gervasi asked for clarification regarding the number of dwelling units proposed for this project. Planner Reed noted the applicant is requesting 696 dwelling units and the Planning Commission is recommending 467 units for the Heron Lakes property with an additional one dwelling unit per 2.29 acres for the Knievel property.

Kirby Carroll, the environmental consultant for the Town, addressed three issues, shoreline buffers, the existing osprey nests and the existing heron rookery. He noted they have determined that the ODP in relation to the shoreline buffers would be adequate to protect the wildlife and implementation would be adequate to protect these areas for future wildlife. He noted the recommendation is that a new nesting platform be constructed for the Osprey nest and that has been done. They are also recommending protection on the power lines to protect the osprey.

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
APRIL 25, 2006
Page 4 of 4

Mr. Carroll noted they are suggesting that monitoring of the new nest be implemented. If the osprey use the new platform, then the old nest can be removed. He noted they are also recommending monitoring of the existing rookery to determine any impacts that occur as a result of this development. Monitoring of the rookery has occurred during the last two years and it is recommended that this continue. If there is a negative impact on the nesting area, then further mitigation needs to occur.

Mr. Carroll noted that when they originally looked at the Knievel property, this was being considered as open space. He noted that from an environmental aspect, the Knievel property is not a pristine wildlife habitat. It is a grazed area, but does have significant characteristics for other wildlife species. The area is utilized by water fowl and wintering birds.

Mayor Pro-Tem Ashcraft asked if earth moving equipment in the area during the nesting season would affect the heron rookery.

Trustee Patrick asked if there is data available to support the opinions that are being expressed regarding the validity of the buffers. Mr. Carroll noted they have extensive data regarding development throughout the western United States that address the type buffers necessary for seasonal nesting. Trustee Patrick asked Mr. Carroll to provide specific written documents. Mr. Carroll indicated he would provide Bureau of Land Management standards.

Trustee Patrick pointed out that there is no way to determine whether large equipment will disturb the birds until you use large equipment in the vicinity of the nests. If you use the equipment to build houses, then how do you mitigate the damage. Once a house is built, you cannot remove the house.

Trustee Gervasi asked Mr. Carroll to comment on the impact of putting a golf course on this property. Mr. Carroll noted that if this gold course is done using the Audubon International guidelines, you may see beneficial impacts on the wildlife and enhanced wetland habitats.

Amy Ryel from Department of Wildlife summarized the information provided in their recommendation, and noted the Division of Wildlife is dedicated to preserving wildlife and that includes allowing hunting and wildlife watching opportunities. The reason to lease is to provide these opportunities. She noted there are already homes in the area and there have been conflicts with residents who have moved into the area, but they have worked with the homeowners in the area to resolve these issues.

Mayor Pro-Tem Ashcraft noted that if property is annexed into the Town, then firing a gun is not allowed. Planner Reed clarified that there is a buffer area that has not been annexed in which hunting can occur.

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
APRIL 25, 2006
Page 5 of 5

Ms. Ryel also clarified that regulations state that no hunting is allowed within 150 feet of an occupied dwelling.

Trustee Patrick noted that under the most favorable circumstances, the Department of Wildlife would like to maintain all the current uses of the property. In order for that to happen, the Town and the developer would have to make sure that occupied residences were not built within the 150 yard buffer. Ms. Ryel noted that is what they are asking.

Trustee Patrick noted osprey usually return to same nest. Ms. Ryel noted that it is possible to move a nest and for the osprey to remain active in the area. They try to relocate the artificial nest as near as possible to the existing nest. She noted they have good potential in this area to make this happen. She noted they would like two years to have the birds active at the new nest.

Mayor Karpeck opened the floor for public comment.

Elizabeth Kearney of 1600 West County Road 10E addressed the Board regarding density, transfer of development rights and the golf course. There is already a density bonus on the property for clustering with 467 units already approved. She suggested it would not be appropriate to increase the density on the property and it would not be appropriate to utilize a TDR when the Town does not have a mechanism in place for it to occur. She noted the second problem with the TDR is that we are transferring density from a marginal property inside the area that has been designated more dense to a pristine property outside the beltway. The third issue she would like to see considered is the option presented by the developer when this was last considered, open space instead of a golf course. She noted there are already golf courses in the area, but there will never be a property this unique and unusual and this is a once in a lifetime opportunity to save a treasure for the Town forever.

Keith Burgess felt the best use of the property and the best way for the most people to have use of the property is as a golf course.

Karen Stockley of 316 Bothun Road suggested there would be a significant impact on the wildlife if you make this a golf course. Chatfield Reservoir was once a heron rookery and once it was flooded and turned into a recreation area, the heron moved and have not returned. There is no other place on this property for the heron to move. Conventional wisdom recommends that there be a buffer of 984 feet, and this proposal is for 900 feet. She also encouraged the Board not to allow a path through the rookery. She also felt that open space would be preferable to a golf course.

Bob Kearney of 1600 West County Road 10E noted that there has been a reported reduction in interest and activity in the golf industry and he recommended that there

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
APRIL 25, 2006
Page 6 of 6

would be a greater benefit to the residents of Berthoud if this property is left as open space. There are significant studies that show positive economic value from nearby open land. Developers interviewed across the country say it does not hurt the bottom line and people are more willing to pay for property near open space. He pointed out that Highlands Ranch has significant amounts of open space, and they are now having the fun of planning the open space with trails and recreation areas. This is our chance to get open space instead of golf.

Paul Hummell 2443 Omni Court addressed the Board in favor of bringing a golf course to Berthoud. He felt that from an economic standpoint, this would have a positive impact on the Town.

Stephanie Doughty of 2180 Crestridge Drive suggested the density levels being requested by the developer are not appropriate on this property.

Jane Muhlenbruch-Yee of 1787 Ridgecrest Drive in Loveland asked that the Board allow the current County Road 19 to remain as it is and continue to be maintained by Larimer County. She encouraged the Board to pursue the open space option, noting that open space and trails will be enjoyed by more people in the area.

Karen Machinery of 1708 W County Road 10E expressed concern about the proposed densities and was in favor of open space instead of a golf course. She expressed concern about the buffers around the rookery, noting that when construction on the Parkway started that construction had a negative impact on the heron. Construction has a negative impact on migrating birds. She also expressed concern about allowing hunting in an area that will be that close to occupied dwelling.

John Goreski of 604 E County Road 10 encouraged the developer to pull the proposed homes back from the lake to provide a larger buffer. He pointed out that the Separator Plan has been adopted and it indicates that this area should be open space or rural low density residential.

Lynn Matthews of 1716 West County Road 10E noted the best way to move osprey is to move the next short distances at a time. He also felt open land would be more valuable to the area.

David Lamb of 1101 North County Road 19 noted the Planning and Zoning Commission had a problem transferring density from a higher density area to a lower density area. He also noted he is a Board member for Handy Ditch and the Handy Ditch Board supports the golf course.

Mayor Karspeck thanked the residents for their comments and noted this hearing will be continued.

Trustee Patrick moved to continue the public hearing for the Heron Lakes Annexation, Zoning, and Overall Development Plan to the May 9, 2006 regular meeting. Second by Mayor Pro-Tem Ashcraft. The motion was approved unanimously.

SET PUBLIC HEARING - REVERE REZONE

Planner Reed explained that Revere Properties, the applicant, has submitted an application for rezoning approximately 45 acres from T (Transitional) to PUD (Planned Unit Development). He summarized the information presented and asked the Board to set a public hearing for the May 9, 2006 meeting.

Mayor Pro-Tem Ashcraft moved to set the public hearing for the Revere Rezoning for May 9, 2006. Second by Trustee Thorstensen. The motion passed unanimously.

PEAKVIEW MEADOWS SUBDIVISION – VACATION OF EASEMENTS

Planner Reed noted Gabriel Development, Inc., Heckel Construction, LLC and GHG Land, LLC have filed a request with the Town to vacate certain easements located within Peakview Meadows Subdivision. Planner Reed asked the Board to set the public hearing for May 9, 2006 to consider this request.

Mayor Karspeck asked Planner Reed to bring this request back to the Board on May 9, 2006 to set the hearing at the next meeting, due to the length of the May 9th agenda.

COMMITTEE APPOINTMENTS

The following recommendations were made for Committee appointments:

Finance Committee – Trustee Glen Buckingham, Mayor Milan Karspeck, Mayor Pro-Tem Don Ashcraft and Trustee Mike Patrick
Tree Board Liaison – Mayor Milan Karspeck
Parks and Open Space Board Liaison – Trustee Chase Sommars
Library Board Liaison – Trustee Peder Thorstensen
Transportation Liaison – Trustee Louis Gervasi
Historic Preservation Commission – Trustee Glen Buckingham
Planning and Zoning – Trustee Louis Gervasi, with Mayor Pro-Tem Ashcraft and Trustee Patrick serving as alternate members.

Board members discussed the appropriateness of having a board liaison to serve on the Planning and Zoning commission. Attorney Fickel noted the only time that could create a conflict is when larger projects are discussed and he suggested that the Board liaison

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
APRIL 25, 2006
Page 8 of 8

refrain from attending discussions of the larger developments at those meetings deemed to be quasi-judicial.

Trustee Patrick moved to accept the committee nominations as submitted. Second by Mayor Pro-Tem Ashcraft. The motion passed unanimously.

EXECUTIVE SESSION

Administrator White requested an Executive Session regarding legal issues.

Trustee Thorstensen moved to adjourn to an Executive Session. Second by Mayor Pro-Tem Ashcraft. The motion passed unanimously.

The Board adjourned to an Executive Session at 9:30 p.m., reconvened at 9:45 p.m. and immediately adjourned.

Mayor Milan Karspeck

Deputy Clerk Charlene Reed