

TOWN OF BERTHOUD  
BOARD OF TRUSTEES  
REGULAR MEETING  
OCTOBER 24, 2006  
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The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, October 24, 2006 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 Peder Thorstensen  
Trustee Glen Buckingham  
Trustee Michael Patrick  
Trustee Chase Sommars

STAFF PRESENT: Town Administrator Jim White  
Public Works Director Tony Huerta  
Police Chief Glenn Johnson  
Town Attorney Bruce Fickel  
Deputy Clerk Charlene Reed

**PLEDGE OF ALLEGIANCE**

Mayor Karspeck led the pledge of allegiance.

**CITIZEN PARTICIPATION**

There were no items presented from the audience.

**REPORTS**

Trustee Gervasi reported on the BATS meeting held on Thursday, October 19, 2006.

Trustee Buckingham reported that there is a Historic Preservation Commission meeting scheduled for Wednesday, October 25, 2006 in the Board Room at 7:00 p.m.

Administrator White reported that due to several factors, including the lack of a location, we have declined to host the circus in 2007.

Administrator White noted that the study session on October 31, 2006 at 6:00 p.m. will be to discuss the possibility of forming a Downtown Development Authority for Berthoud. The Board will be meeting with Chip Steiner who is in charge of the Downtown Development Authority for Fort Collins.

Administrator White noted he has not received a report from the Developers Forum that was held recently. Don Sandoval from the Department of Local Affairs facilitated the

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meeting, and once we receive information regarding the meeting, a report will be presented to the Board.

Administrator White noted the next meeting of the Finance Committee is scheduled for October 26, 2006 at 7:00 a.m. at Town Hall.

Administrator White noted we have completed interviews for a new police officer and hope to get a new officer started in the near future.

Administrator White reported that the Berthoud Community Coalition for Youth is meeting at Berthoud High on Wednesday, October 25, 2006 from 7:00 to 9:00 p.m.

Public Works Director Huerta announced that a public meeting is scheduled for Wednesday, November 1, 2006 from 6:00 to 8:00 p.m. in the Board Room to present the plans for improvements to Mountain Avenue.

Public Works Director Huerta noted we originally intended to flush our water system on October 19, 2006, but that was postponed. This flush has been rescheduled to November 1, 2006 and we hope that this will continue to improve the quality of our water.

Attorney Fickel reported on the lawsuit that was filed against Hacienda Builders. The Town of Berthoud received a judgment against the builder.

Attorney Fickel noted the Town has also filed suit against the company involved with the work on County Road 17. They drilled into one of our water lines, and declined to make restitution, so we have pursued this through the courts. It is possible that the damage is in excess of \$100,000.

Trustee Patrick noted that the Board has agreed to defer the payment of permit fees, and he asked if we require a letter of credit for those fees. Attorney Fickel noted that in the vast majority of these instances, we have not had a problem. These are new houses and until all fees are paid, we do not issue a certificate of occupancy. The problem in this instance is that these houses are not selling and that is complicating the situation.

Trustee Patrick noted slow house sales are common in Northern Colorado. He asked if there are other builders that are in the same situation. Attorney Fickel noted the town has issued 29 permits in 2006, and if any of those homes have not sold and been issued a certificate of occupancy, then there is the potential for other builders to be in the same situation. A letter of credit would make it easier for the Town to get our money, but it would put a burden on the builders which would defeat the purpose of the deferred fees. He noted we are revising our agreement to require any builder in this situation to pay interest and attorney's fees, and he mentioned that he could include collateral requirements if that is what the Board would like to see. However, the Town does have a

means to collect, since the fees must be paid before the Town will issue a certificate of occupancy. No direction was given by the Board.

### **CONSENT AGENDA**

The Consent Agenda consisted of the minutes of the regular meeting held on October 10, 2006 and acceptance of the CRD3 Paving Agreement.

Trustee Gervasi asked that the CRD3 Paving Agreement be removed from the Consent Agenda.

**Trustee Buckingham moved to approve the consent agenda as submitted. Second by Trustee Sommars. The motion passed unanimously.**

#### **CRD3 Paving Agreement**

Public Works Director Huerta explained that this agreement was brought to us by Larry and Jacqueline Bebo and Garrett and Diane Paull, who reside on WCR 3. This agreement is intended to delineate their maintenance responsibility, jointly, for Weld County Road #3. These maintenance obligations are a result of the Bebos and the Paulls action of paving WCR 3 without obtaining approval from the Town of Berthoud prior to performing the paving.

Public Works Director Huerta noted that as a result of this action, the Town is getting an improved road that was completed by the property owners and donated to the Town. They have agreed to maintain the road for four years from completion, and this should be an adequate period to determine that the roadway will stand up to traffic.

Attorney Fickel concurred with Public Works Director Huerta's recommendation that the Board approve this agreement.

Trustee Gervasi asked if these individuals are requesting reimbursement for the \$92,820 that was spent. Attorney Fickel noted they are not asking for reimbursement. They are getting a valuation of the work performed and are requesting a gift letter from the Town for tax purposes.

Public Works Director Huerta noted this agreement is for four years of maintenance, with the full cost of repairs and maintenance covered for the first 2 ½ years. He noted if a problem is going to appear, it will appear within the first two years. We are covered by that agreement and if the road fails, they will be required to replace the road.

Trustee Patrick was astonished that one of our citizens would pave one of our roadways and surprised that a contractor would make changes to a public road without asking

permission from the Town. He noted that even though it was unsolicited, someone has given us a benefit in excess of \$90,000. Nothing in this document indicates that the Town would have to maintain a paved road. If the road does not perform adequately, it can be returned to an unpaved state.

Trustee Buckingham asked what kind of warranty the Town would get if we hired someone to pave a road. Public Works Huerta noted when we have completed projects of this type in the past, we have had a one year warranty. He explained that with new developments, we ask for a two year warranty on the public improvements.

**Trustee Buckingham moved to approve the Agreement for Maintenance and Repair for the paving installed on Road 3. Second by Mayor Pro-Tem Ashcraft. The motion was approved unanimously.**

#### **AWARD BID – WW BUILDING**

Public Works Director Huerta explained that these two buildings were a part of the plan for the new wastewater treatment facility and were eliminated for financial reasons. They are needed, and we have funds set aside in the 2006 budget to complete both buildings; \$30,000 for a building to protect the plant's UV Disinfection System from the elements, and \$20,000 for a building to protect the Headworks System.

Public Works Director Huerta noted we received three bids, with the best bid from Tuff Shed, Inc. for \$35,616.15 for both buildings. He felt these buildings would be acceptable and provide an economical solution. With proper maintenance, the buildings should last a long time and blend with the surrounding area.

**Trustee Thorstensen arrived at 7:40 p.m.**

**Trustee Buckingham moved to approve the selection of Tuff Shed, Inc. to construct the UV Building and the Headworks Building at the Town's Wastewater Treatment Plant. Second by Trustee Sommars. The motion passed unanimously.**

#### **AWARD BID – REMOVAL OF BIOSOLIDS – OLD WW TREATMENT PLANT**

Public Works Director Huerta explained that staff is requesting approval of the selection of Parker Ag Services, LLC to remove and properly dispose of the remaining bio-solids from the Town's old wastewater treatment plant. He noted that staff contacted three contractors, Parker Ag Services, LLC, Liquid Waste Management, Inc. and McDonald Farm Enterprises, Inc. and received bids from all three firms. Parker Ag Services, LLC had the low bid of \$15,000, compared to bids of \$26,390 from Liquid Waste Management and \$32,510 from McDonald Farms Enterprises, Inc.

Mayor Karspeck asked what this site will be used for after the cleanup is completed. Administrator White noted the site is being considered for a possible location for the Street Department. He noted another possibility is to sell this location and purchase property adjacent to other public works facilities.

Administrator White noted another possibility is to use this property as a joint site for the Street Department and BATS. BATS has bond funds available to purchase or build a building to house the vehicles and for an office, and it might be possible to use this property to accomplish that goal.

Mayor Karspeck suggested this might be a good location for a skate park. Mayor Pro-Tem Ashcraft agreed and noted there are grant funds available for recreational facilities and this might be a good use of this property.

**Trustee Gervasi moved to approve the selection of Parker Ag Services, LLC to remove, and property dispose of, the bio-solids from the old digester at the Town's old wastewater treatment plant. Second by Trustee Buckingham. The motion passed unanimously.**

**CONTINUATION OF PUBLIC HEARING RE:  
CHAPTER 17 OF THE MUNICIPAL CODE**

Mayor Karspeck reopened the public hearing. Attorney Fickel distributed the revised version of Chapter 17 and summarized the changes in the document.

Trustee Gervasi asked that 17-20-140 Parking of Motor Vehicles or Trailers on Private Property be modified to remove "except as permitted in properly zoned areas and shall not be parked within the side or rear setbacks applicable to the residential lot."

Trustee Gervasi expressed concern that permits are given to the driver of the vehicle and not to the property owner. This does not provide protection for the property owner. Attorney Fickel noted if a vehicle is illegally parked on a property owner's property, then that person would have the ability to file a trespassing complaint against the owner of the vehicle.

Trustee Patrick noted that by limiting the permit to the owner of the vehicle, we prevent five different people from requesting a permit for the same vehicle in the same location. He noted he understood that we were going to limit parking to four days with an additional ten days allowed by permit, and requested that the wording be modified to reflect this requirement. Attorney Fickel agreed to make this change.

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Attorney Fickel proposed wording that in extenuating circumstances, where there is no room on a lot to park a recreational vehicle; the vehicle owner could apply for a variance through the Town Administrator and be allowed to park in setbacks or on the street.

Trustee Gervasi objected to the restriction regarding parking a recreational vehicle in a setback, suggesting that property owners should be allowed to make decisions regarding what is done on their property. Trustee Buckingham supported this view, noting that we do not have this restriction at the present time and we do not have our alleys lined with recreational vehicles.

Mayor Karspeck opened the floor for public comment.

Ralph Nelson, 1121 4<sup>th</sup> Street, expressed concern about the restrictions against parking in the setbacks. Mayor Karspeck noted this is being addressed.

Bill Heidenreich of 106 4<sup>th</sup> Street noted he is confused. He understood a person could park in front of a residence if the vehicle met the guidelines.

Trustee Patrick spoke in favor of Attorney Fickel's modification of the language to allow the Town Administrator to grant exceptions in extenuating circumstances. This gives flexibility and addresses the problem for owners of small lots.

Attorney Fickel encouraged the Board to keep the setback language in 17-20-140 and allow the permit process.

**Trustee Patrick moved to approve the amendments to Chapter 17 as proposed by the Town attorney. Second by Trustee Sommars. The motion passed unanimously.**

**Trustee Patrick moved to adopt ordinance 1037 accepting and amending Chapter 17 of the Berthoud Municipal Code to be replaced by the revised Chapter 17. Second by Trustee Sommars. The motion passed unanimously.**

With no further business, the meeting adjourned at 8:35 p.m.

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Mayor Milan Karspeck

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Deputy Clerk Charlene Reed