

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
SEPTEMBER 12, 2006
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The Board of Trustees for the Town of Berthoud met for a regular meeting on Tuesday, September 12, 2006 in the Board Room of the Town Hall. Mayor Karspeck called the meeting to order at 7:03 p.m.

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

MEMBERS ABSENT: Trustee Michael Patrick

STAFF PRESENT: Town Clerk Mary Cowdin
Town Attorney Bruce Fickel
Planning Director Robert Anderson
Planning Technician Sue Bowles

PLEDGE OF ALLEGIANCE

Mayor Karspeck led the Pledge of Allegiance.

CITIZEN PARTICIPATION

Mina Cox – 841 LCR 19 again expressed her opinion that the Board should not be looking at sketch plans, and requested that the Brown Sketch Plan be removed from the agenda. According to Ms. Cox, this process is not allowed in the Development Code, exposes the Town to a lot, and it is not of value to continue a process that is not allowed.

Mayor Karspeck noted that this subject is on the agenda for next Tuesday's study session, but for right now it remains part of our procedure.

REPORTS

Trustee Buckingham noted that he has had discussions with Trustees and others about the sketch plan process, and wants the public to know they're taking these thoughts under advisement. The Board will most likely come up with a policy statement.

Trustee Buckingham reported that Tom Vaughan wanted it known that the Johnson-Botterill home located at 500 1st Street has received designation as a historic landmark.

Mayor Karspeck reported that the Town had refinanced its water and wastewater bonds at a lower interest rate for a savings of almost \$200,000.

CONSENT AGENDA

Mayor Karspeck asked to remove the PVREA from the agenda. Trustee Buckingham moved to approve the Consent Agenda after striking Poudre Valley REA. Mayor Pro-tem Ashcraft second. Motion passed unanimously.

Mayor Karspeck reported that PVREA has asked that the Town continue the franchise for 6 months. Staff recommends that we proceed with negotiations on an expedited basis. Mayor Pro-tem Ashcraft moved to approve continuation of the franchise for six month. Second by Trustee Thorstenson. The motion passed unanimously.

PROCLAMATION – CONSTITUTION WEEK

Mayor Karspeck read the proclamation celebrating the 219th anniversary of the Constitution of the United States of America, and called for a vote. The motion passed unanimously.

SET PUBLIC HEARING - DAVIS/SCHLEIGER REZONE

Planning Director Anderson reported that Jon Turner has submitted an application for rezoning approximately 147 acres from T-Transitional to PUD – Planned Unit Development. The property is located south of Spartan Avenue, east of Hillsdale Subdivision and west of 1st Street and the railroad.

Trustee Buckingham moved to set a public hearing date for September 26th. Second by Trustee Gervasi. All Trustees voted YES.

CONTINUE PUBLIC HEARING O'MALLEY GLEN ANNEXATION, REZONING AND ODP

Planning Director Anderson informed the Board that the applicant has requested that the hearing be continued until the regular meeting of September 26th.

Trustee Buckingham moved to continue the O'Malley Glen public hearing to September 26th. Second by Trustee Gervasi. All members voted YES.

SKETCH PLAN – BROWN PROPERTY

Jim Birdsall addressed the Board, first noting that Jon Turner, the property owner, is having health problems so he is not here tonight. The property is located west of and adjacent to Trails at Sugar Creek, and east of and adjacent to Taft Ave (LCR 17).

The proposal is for a mixed use project with commercial at Water Street and Taft Ave., with pockets of single family, as well as some multi-family, parks, continuation of the trail system. At this point, we just want to know if we are going in the right direction.

Mayor Karspeck opened the hearing for public comment. There being no one wishing to speak, the matter was brought back to the Board for discussion.

Trustee Thorstenson said he felt the proposal was a good fit for that property and asked if it would be the same type of design as Trails at Sugar Creek.

Birdsall said the residential design and the character would be similar to Trails, however, with the property so close to Taft, there's an opportunity for higher density housing.

Trustee Thorstenson noted he is still a fan of the grid system with alleys. This seems like a good fit for that parcel.

Trustee Gervasi pointed out that Trails has less than four (4) dwelling units per acre.

Birdsall said the density is increased due to the multi-family. The question is, is that what you want to see in town?

Trustee Gervasi said there should be a tapering effect to LCR 17.

Birdsall noted that this plan is a reaction to the chip game, which showed significantly more density in this area. Also in relation to LCR 17, although it doesn't warrant commercial for the entire strip, it is not appropriate for single family, but it becomes a good streetscape for multi-family.

Trustee Buckingham said he'd like to see this go through the proper process. The CAC has done a lot of hard work, and he'd like to see how this fits in with the plan, and then pass through the Planning Commission for comments. There is a danger that comments in this forum are taken as direction rather than opinion. He noted his concern with the density, but not so much along Taft. There is a certain density that will fit there. The bigger question for the Board to struggle with is the amount of multi-family that ought to be consumed by a community of our size. This is putting 20% into multi-family. It's a great deal for the developer because they can sell 10-12 units in a small area, but this is too much too quick for this size town. From a trails perspective, with this property adjacent to Loveland reservoir, there should be a connection either over or under to get to it. Also, let the PORT committee and Planning Commission look at this. The single family product should have some affinity with the property to the east. At 5 du per acre, it is twice as dense as Trails. Again, these are just opinions.

Mayor Karspeck said this property is a great opportunity, and noted that he's glad to see that the trail is part of the fabric of the development, and that the trail along the ditch is what we asked for in the PORT plan. He is concerned about the intersection at Bunyan since they expect to have a recreation center on the south side. There will be a fair amount of traffic. He'd like to avoid traffic lights on Taft Avenue if at all possible.

Birdsall said that staff thought a traffic light would be desirable since it would bring traffic from Trails at Sugar Creek out on Water Avenue instead of at Bunyan and 10-E. Birdsall asked if the Board would be open to a roundabout, since staff will want a full movement intersection, so it would need to have a light or roundabout.

Karspeck said he would be open to that.

Trustee Buckingham noted that traffic really motors through there. Something has to be done for speed.

Birdsall pointed out that a roundabout would be traffic calming, and would slow people down.

Mayor Karspeck noted that he would reconsider his support for this much density if it meant having a traffic light.

Birdsall said it was his understanding that the traffic from Trails at Sugar Creek already warrants a light.

Mayor Karspeck said he could see a light at Bunyan Avenue, but he's not sure about Water Avenue. As a town we need to plan our own traffic network rather than letting it happen to us.

In response to Mayor Pro-tem Ashcraft's question whether the Brown property will have a non-potable water system, Birdsall said they are pursuing one that would be shared with Trails at Sugar Creek and the park.

Mayor Pro-tem Ashcraft noted that in regards to the high density along Taft, he has seen some modern planning where there is a buffer between the road and the units, and doesn't like the rear of the units facing major roads. He likes the idea of estate sized lots facing busy streets and then behind that is more density. The sketch plan process is preliminary, and I'm looking for what's special about this project. I'm waiting to see some innovative plans. What I like about this sketch plan process is that there are fewer surprises.

Trustee Sommars asked, since it is so close to the community park, why do they have a pool?

Birdsall said that this is the something special and innovative that Mayor Pro-tem Ashcraft was looking for. They plan to provide a community clubhouse and outdoor pool for residents of the subdivision, further noting that all facilities in the metro-district would become a community facility that is then available to the entire community. This project is close to schools, close to parks, trails, a recreation center, and an outdoor pool. These are great amenities for that neighborhood. Right now these are just ideas.

Birdsall noted that the sketch plan process is valuable for the developer. Having this dialogue is valuable, and you can't really have that in another setting. Maybe it can become part of the process. An informal study session with the Board and Planning Commission provides the developer with insight, and saves money when they get this input early.

Trustee Buckingham noted that the Board has talked about this. We can't afford for the planning process to be short circuited by what we do.

CONTINUE PUBLIC HEARING
ORDINANCE AMENDING CHAPTER 17 OF THE MUNICIPAL CODE

Significant discussion was held and concerns expressed regarding several items in this ordinance, including:

1. Unlawful to fail to perform an act. This makes criminals out of people who fail to do something;
2. Confiscation –who determines if property is involved in a crime;
3. It is the duty of everybody in the town when called upon to promptly aid and assist;
4. The fire department has their own jurisdiction, and they don't have arrest powers.
5. Inciting imminent violence or lawlessness;
6. Unlawful assemblies;
7. Holding someone arrested for loitering until bond or trial;
8. Likely to or does incite physical violence;

9. Snowball throwing;
10. Graffiti which is visible;

Mayor Karspeck said he was impressed with how reasonable the ordinance was. It is very common sense. There are a lot of judgment calls, and the Town has had little problem with the police, but he has seen kids pushing the limits. He further noted that he was glad to see the section on possession of tobacco by minors. This gives the officers some tools.

Mayor Pro-tem Ashcraft said he has confidence in our Police Department and Attorney, and is not qualified to say what should and shouldn't be in the ordinance.

Trustee Sommars said he sees this as upgrading to State law.

Attorney Fickle said most of the ordinance was taken out of state statutes. He explained that the reason they'd like to put these in the Town's code is so we can bring people into our municipal court where we can talk and find out what the problem is. We're trying to expand on what can go into our court rather than having to be processed in county court.

In response to Trustee Sommars question whether the fines go to the county, Fickel said yes. If it's prosecuted by the county, it's paid to the county.

Mayor Karspeck opened the meeting for public comment.

Dick Strachan – 545 7th Street had questions on motor homes and definitions. Why is it required to have a non-porous surface for a vehicle or boat that is screened behind your house. The definition of vehicle being used for sleeping purposes is that it's plugged into water or electricity. I have an inverter in my motor home that keeps the batteries charged as long as it's plugged in. I don't think that's a good definition of whether it's being used as a sleeping place. Regarding parking in commercial or industrial storage areas, it is limited to certain areas, and there's nothing to prevent vandalism. Regarding off highway vehicles – I don't see a good definition there; motor scooters, electric scooters, etc...does it have to have a license to go down the street or sidewalk? This is too restrictive in some areas. Commercial operators take their trucks home because there's no place that would observe them for vandalism in the industrial area. It takes more thought than what we have here. It sounds great if you don't own a boat or a trailer, but for those who do, these laws are unfair.

Bill Heidenrich – 1106 4th St. agreed with Strachan. If we go on a witch hunt for everyone who has boats, trailers, etc., you're going to have some very unhappy people. They shouldn't be forced to put them where they can be vandalized or stolen. The section regarding unlicensed vehicles that can't be stored on your property; if you have a car in your front yard that's been there for awhile and weeds have grown up around it, that's a problem, but if it's covered and moved to the back out of sight from street, you should be allowed to keep it, for instance if you're working on restoring a car. I drive a commercial truck and I want it where I can keep an eye on it. I've never had a problem keeping it at my residence.

Ralph Nelson - 1121 4th St. I have a 5th wheel and a camper and it's sitting beside the house to the rear and on concrete. It should be allowed in the back yard or on your property.

There was some discussion regarding delineating the guidelines for vehicles parked on streets versus on private property, and how to define "hidden from view".

Strachan pointed out that in the legal notice it just says amending Chapter 17, but does not say what it concerns.

Trustee Buckingham moved to continue the public hearing for Amendments to Chapter 17 to the regular meeting of September 26th. Second by Trustee Gervasi. All members voted Yes.

RESOLUTION - BATS FUNDING

Town Clerk Cowdin noted that one of the things identified in the FTA triennial review is that the Town doesn't have a resolution allowing us to receive funds. We will be hopefully getting \$121,000 grant for storage of the buses. Currently some are stored behind Town Hall, and some in the Community Center parking lot.

Trustee Gervasi noted his appreciation of the degree of information on this cover sheet. The Board has been seeking this information from BATS and has had trouble receiving it.

Trustee Buckingham moved to approve Resolution 1306, a Resolution authorizing the Town Administrator or his designee to execute and file application for Federal assistance authorized by 49 U.S.C., Chapter 53, Title 23, United States Code. Trustee Gervasi seconded.

All members voted Yes.

Trustee Buckingham informed the Board that he will not be able to attend next week's study session.

Meeting adjourned at 9:10 p.m.

Milan Karspeck, Mayor

Sue Bowles, Planning Technician