

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
APRIL 24, 2007
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The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, April 24, 2007 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 Louis Gervasi
Trustee Peder Thorstensen
Trustee Glen Buckingham
Trustee Michael Patrick
Trustee Chase Sommars

STAFF PRESENT: Town Administrator Jim White
Parks and Recreation Director Jeremy Olinger
Public Works Director Tony Huerta
Planning Director Robert Anderson
Planner Carlin Barkeen
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 reported that Planning Director Anderson went to Larimer County to discuss the possibility of renaming the portion of highway 287 to 1st Street. This request was well received, but they were not willing to extend 1st Street to Highway 60.

Administrator White noted that the individual who questioned our practice of mosquito fogging in Berthoud asked if the Board will consider discontinuing this practice. Mayor Karspeck suggested this be a topic for the next available study session agenda.

Administrator White announced that a public meeting regarding the Mountain Avenue project will be held in the Board Room on April 30, 2007 from 6:30-8:00 p.m.. Representatives from Short, Elliot and Henderson and Public Works Director Huerta will go through the preliminary design plans and take comments from the public. Those comments will be taken to the meeting with CDOT later that week.

Administrator White noted that he attended the Northern Colorado Economic Development Corporation meeting regarding transportation. Discussion of a Regional Transportation Authority was highlighted. He noted NCEDC has relocated its office in Loveland and they are holding an open house on Thursday, May 10, 2007 from 4:00 to 8:00 p.m.

Administrator White reported that he and Mayor Karspeck attended a meeting with the R2J School District last week to discuss the sale of 15 acres from the Waggener property to expand the middle school site in Berthoud. The School District unanimously endorsed the sale of the property and we hope to have this closed by Friday, April 27, 2007 or the first week in May, 2007.

CONSENT AGENDA

The Consent Agenda consisted of the minutes of the regular meeting from April 10, 2007, the minutes of the special meeting on April 17, 2007, the financial statement for March 2007 and bills allowed for April 2007.

Trustee Buckingham asked that the minutes of the regular meeting from April 10, 2007 be removed from the consent agenda for correction.

Trustee Buckingham moved to approve the consent agenda as submitted. Second by Trustee Gervasi. The motion was approved unanimously.

Trustee Buckingham requested that the motion regarding the approval of the Brown Farm ODP be modified, as follows:

Trustee Buckingham moved to approve the Brown Farm ODP with the Planning and Zoning Commission's recommended conditions and with the condition that the developer will work with the Town in an effort to achieve a multi-family density of 6 dwelling units per acre and a single family residential density of 3 dwelling units per acre. Second by Trustee Patrick. The motion passed unanimously.

Trustee Buckingham moved to approve the minutes from April 10, 2007, as amended. Second by Trustee Patrick. The motion was approved unanimously.

AWARD BID – PIONEER PARK PHASE 1

Parks and Recreation Director Olinger presented a request for bid approval to continue work on Pioneer Park Phase 1.

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Mayor Pro-Tem Ashcraft asked why we are not applying for grants to complete this entire project, using the funds that are available as matching funds. Administrator White noted the Town has been in a financial situation over the past several years that did not allow us to set aside additional funds for this project. The intention is to complete this portion of the project in 2007 and continue to do this project in increments until it is complete. He noted the Town has already applied for a GOCO grant to complete the Skate Park and we did not want to compete with ourselves for those funds.

Mayor Pro-Tem Ashcraft noted he is concerned that if we use these funds now, we will not have further funds available to use for grant matching funds in the future. He felt it would be more appropriate to postpone this project and keep these funds to use for matching funds for a grant application at a later date.

Trustee Patrick asked where these improvements will be located. Parks and Recreation Director Olinger noted these improvements are in the Southeast corner of Pioneer Park. There will be a larger portion that will remain in grass after this is completed.

Trustee Patrick asked if there is a possibility of getting the remaining two acres of this park into irrigation and grass. Parks and Recreation Director Olinger noted we need to determine ownership prior to making changes in that area.

Trustee Buckingham noted if you have money earmarked for a project and you are awarded grant funds, you can get more done in a year. He asked why we are spending this money instead of applying for matching funds.

Administrator White noted that we have not had the money to do any work on this park in several years, so we set aside funds to do this portion of the park. We did not want to compete with ourselves in applying for GOCO funds. We were required to eliminate the skate park equipment due to its condition and that is where we applied for funds. He noted that even without matching funds, this allows us to make progress in both parks.

Trustee Buckingham suggested it might be more appropriate to postpone this until next year and then apply for GOCO funds to complete this park.

Parks and Recreation Director Olinger agreed that it is possible to go for grant funds at a later date, but he pointed out that due to its size, the undeveloped portion of this park may require a significantly larger match to be completed.

Administrator White noted if we wait to apply for grant funds, this will delay this project for at least six months. This portion of the park can be completed without interfering with the current usage. He noted that making significant changes in the unfinished part of the park is too expensive at this time.

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Trustee Gervasi noted the bid is approximately \$7,000 more than we have in the budget and asked where the remaining funds would come from. Administrator White noted we would more likely reduce the scope of the job to bring the price in line with the funds available.

Trustee Gervasi asked if staff looked at projects this company completed to verify the quality of their work. Parks and Recreation Director Olinger noted we have worked with this company in the past. They did Nielson's Greenway for us.

Trustee Thorstensen felt it would be appropriate to apply for future grant cycles to complete a larger portion of this park. He would prefer to see this money used as matching funds, rather than spending it and not have funds available for a future match. Administrator White noted there is no guarantee that we will get grant funds, since the competition for grants is significant and more competitive.

Mayor Pro-Tem Ashcraft noted there was a total of \$150,000 set aside for this park in an agreement between the Town and the developers. He noted he would like to see the remaining funds used to finish the park, and felt it would be more appropriate to wait another year and apply for grant funds to complete the park. The proposed project is sprucing up the existing park, but will not make any progress in completing the remainder of the park. He noted he would hate to see the \$150,000 that was set aside for this park gone and no further funds available.

Mayor Karspeck asked if this amount was included in the budget. Administrator White noted \$58,721 was included in the budget. Parks and Recreation Director Olinger said this bid was based on an estimate done in 2005. Mayor Karspeck noted that since we have already taken bids for this project, he would like to see this done.

Trustee Patrick noted that if there was a realistic probability that we could get a matching grant to double our funds, then it would be worth waiting a year to begin this project. If we use these funds, we do not have a funding source for the remainder of this project. He felt it would be appropriate to keep these funds and apply for grants for matching funds. If there is no potential for matching funds, then we can go forward with this plan. He pointed out that since we have not applied for any grants for this park, then we do not know if there is the potential for matching funds. He noted we have utilized grant funds in the past to make amenities for the community that we could not have done otherwise.

Trustee Gervasi moved to accept the bid proposal from G. L. Hoff for Pioneer Park Phase I Improvements. Second by Trustee Sommars. Mayor Karspeck and Trustees Gervasi and Sommars voted YES. Mayor Pro-Tem Ashcraft and Trustees Buckingham, Patrick and Thorstensen voted NO. The motion failed.

Trustee Patrick noted these funds are earmarked for the completion of the park and he suggested our best opportunity would be to use these as matching funds and try to complete a larger portion of the park. He pointed out that we need matching funds for a GOCO grant, and without these funds, we do not have the ability to match.

NORTHERN COLORADO ECONOMIC DEVELOPMENT

Administrator White introduced Maury Dobbie, President and CEO and Jacob Castillo, Vice President, from the Northern Colorado Economic Development Corporation.

Ms. Dobbie presented a quick overview of the changes that they made over the past year and identified the goals of their organization including transportation, education and workforce and water. She noted their main purpose is to develop and enhance jobs in our area. She noted their organization is working to attract businesses that bring primary jobs into the area. Primary jobs are those companies that bring new wealth or new money from outside the region into the Town. All jobs are important, but primary jobs will sustain an economy.

Mr. Costillo thanked the Board for their investment and support. He noted one of their top priorities is to work for business retention. In a recent announced move by Rocky Mountain Biodiesel, they worked with Berthoud Town staff to determine if it was possible to keep the business in Berthoud. We were unable to prevent their relocation, but we built a strong team to address issues of this type in the future.

Mr. Costillo noted NCEDC was instrumental in E-Markets relocating their corporate headquarters to Berthoud. This created six new primary jobs in Berthoud. He noted Berthoud's location is unique and positive for growth of this type.

Mayor Pro-Tem Ashcraft invited representatives of the NCEDC to attend meetings of the new Economic Development Committee that has formed in Berthoud. Ms. Dobbie noted they would be happy to participate and that the NCEDC has a partnership with CSU, which allows us access to an economist who will be providing data regarding the area that will be credible and can be trusted.

Trustee Gervasi asked if the NCEDC is developing relationships with the Chambers of Commerce in the area. Ms. Dobbie noted they are working to collaborate with the Chambers in the area in areas such as business retention and relationships.

Trustee Buckingham noted he has perceived changes in the energy levels that are apparent in the organization and he commended the NCEDC on their efforts.

**PUBLIC HEARING – O'MALLEY GLEN OVERALL
DEVELOPMENT PLAN AND REZONE**

Planner Anderson summarized the project and explained that staff is recommending approval of the requests.

Planner Barkeen explained that the applicants have submitted two requests for consideration by the Board. The requests include rezoning to PUD (Planned Unit Development) and an Overall Development (ODP) for the O'Malley Glen property. She summarized the recommendations from the Planning Commission and explained that the event center on the northwest corner of the site needs to be removed from this proposed site. She also summarized the conditions that the School District and staff added to the project.

Steve Hanson of Carroll and Lange, Inc. addressed the Board. He noted they are in full agreement with the conditions that have been presented. He summarized the proposed development.

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

Trustee Buckingham noted that during the last presentation of this project, there were strong views from the Board regarding density. He noted in this presentation, we have the same total number of dwellings that have been reshuffled over the parcels. He was disappointed that this was returned to the Board with the same density.

Trustee Gervasi noted he would like to see this parcel developed, but noted he will oppose both the PUD and the ODP because of the density being presented. This is not in keeping with the rural character of the area and has a significant impact on surrounding properties. This does not include the feathering that we are looking for.

Mayor Pro-Tem Ashcraft noted density is controlled by the Development Code and he asked what is allowed. Planner Anderson noted our Development Code allows 4-6 dwelling units per acre for residential and higher for commercial. This meets our residential standards.

Trustee Sommars noted that if the commercial would develop concurrently with the residential areas in the development, he would support this proposal. This development would make a significant impact on the sales tax collected by the Town.

Trustee Patrick expressed concern about the carriage units, the 40' lots and the overall densities of this property. He asked if going forward with approval with this request would allow any vested rights regarding these items. Planner Anderson noted vesting occurs with the final development plan.

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Attorney Fickel agreed that when you approve this, you give the developer an indication regarding how to proceed. He felt that if the Board is not going to be satisfied with these densities, it should be addressed before the developer goes forward.

Trustee Patrick noted there are factors that might make the Board comfortable with higher densities, but we would want to have some understanding regarding why this project would merit consideration of densities that are substantially different than those that have been approved in the past.

Mayor Karspeck noted in the last development that was approved, the developer agreed that the numbers approved would be the maximum density. Trustee Buckingham noted that developer agreed to pursue a 6 du/acre for multi family units and a 3 du/acre for single family residential and that was a reasonable compromise.

Mayor Karspeck noted it is possible to approve the ODP with the understanding that this level is the maximum density that will be allowed.

Trustee Patrick agreed, but noted that density on this project is going to be an ongoing concern and it is important that it be addressed.

Mayor Karspeck suggested there is a tradeoff between what the developer receives and what the Town receives. He noted he would like to see the options and then make the decision. He did not feel it is appropriate to say no at this point.

Mayor Pro-Tem Ashcraft noted we lost the potential for options when we brought up density. He was not comfortable in changing the development code on a development by development basis and felt that density should be considered at a later date.

Trustee Gervasi did not feel it is appropriate to encourage this developer to continue with this project with densities that are not appropriate for the location. He felt if this project was closer to downtown it might be appropriate, but he was not comfortable supporting this project with the densities requested in this location.

Trustee Patrick asked what density would be allowed by the zoning that is being requested. Planner Anderson noted a PUD encourages flexibility and allows up to 12 du/acre. Each and every proposed PUD must be evaluated separately.

Trustee Patrick suggested the simple way to solve this problem is to modify the language in the Land Use Summary of the ODP to state that "Gross Density" should be "Range of Density" and the allowable numbers for each parcel would be 0- to the stated maximum density. As an example, Parcel 1 would be 0-6.39. That would give the developer a range, but would make it clear that this is dependent on the plans that come in. He would

like to see the numbers stated so that everyone understands that this is a range, and the higher number is the maximum.

Planner Anderson noted this is acceptable to the applicant. Item #2 on the summary indicates that the numbers presented are the maximums that will be allowed.

Trustee Patrick moved to approve the O'Malley Glen ODP with the inclusion of the conditions of approval 14-24, with the note that conditions 1-13 have been approved by the applicant for inclusion at a later date in a different legal document and with the change in heading from "Gross Density" to "Range of Density" and the notation of 0- to each number starting with 6.39 going through 5.50. Second by Trustee Thorstensen.

Trustee Buckingham asked if this allows the Board to have the flexibility to look at the FDP proposals and make further adjustments. Attorney Fickel agreed and noted this gives the developer the ability to be creative and look for ways to complete the development with something that will make higher densities acceptable to the Board.

Trustee Gervasi voted NO. All other Board members voted YES and the motion passed.

Mayor Karspeck read the title of the proposed rezoning ordinance.

Trustee Buckingham moved to approve Ordinance 1061, rezoning O'Malley Glen from T (Transitional) zoning district to PUD (Planned Unit Development) zoning district. Second by Trustee Sommars. Trustee Gervasi voted NO. All other members voted YES and the motion passed.

The Board took a recess at 8:57 p.m. and reconvened at 9:15 p.m.

**PUBLIC HEARING – COLLINS PARK PUD AMENDMENT
TO THE FINAL DEVELOPMENT PLAN**

Planner Anderson noted the applicant Steve Feller, of Berthoud Development, LLC is requesting an FDP amendment for a modification of the approved FDP for Collins Park PUD to modify the minimum garage facing alley setback from 15' to 5'. He noted that Planning staff supports this amendment. Our current development code requires a 15' setback. This may have been inappropriate since 15' is not long enough for a full size vehicle. Staff looked at this development and they are trying to incorporate new and modern designs and still maintain the grid street plan that the Board wants. They are trying to increase the usable space between the house and the garage and eliminate space in the alley.

Trustee Buckingham asked if staggering was discussed with the Planning and Zoning Commission. Planner Anderson noted this was discussed and they felt staggering would eliminate the barracks appearance. There is also the possibility of an attached garage which would even increase the setback and the 5' setback would be the minimum.

Dave Wickum distributed photos that indicated how the 5' setback would appear. He noted he visited two other subdivisions and neither had a problem with parking in the alley.

Trustee Patrick noted he asked staff to consider this on a more global basis and he felt this should be considered in the near future as a development code amendment. This is the beginning of a change in process.

Trustee Patrick moved to approve the Collins Park PUD Final Development Plan (FDP) Amendment for modifying the minimum garage-facing alley setback from 15' to 5' with the conditions set forth in the packet, with the agreement from the applicant to a 2' minimum stagger between the properties and no parking signs to be erected in the alleys. Garage setbacks would be permitted to vary no closer than 5' from the alley. Second by Trustee Buckingham. Trustee Gervasi voted NO. All other Board members voted YES and the motion passed.

EXECUTIVE SESSION

Mayor Karspeck noted the Board need to adjourn to an Executive Session to consider the Thompson R2J negotiations regarding the purchase, acquisition, sale, lease or transfer of property, and privileged attorney-client conferences regarding the Loveland Lake and Ditch Easement and annexation policies and practices.

Trustee Buckingham 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. and reconvened at 10:38 p.m.

MOUNTAIN AVENUE CHANGE ORDER

Public Works Huerta explained that he is bringing back the request to approve Change Order #2 to our design contract in the amount of \$17,285 for performing a design for the Loveland Lake and Ditch Company's irrigation pipeline under Mountain Avenue. The plan is to use funds provided by CDOT to complete this design.

Mayor Pro-Tem Ashcraft moved to approve Change Order #2 to the Town's contract with Short, Elliot and Henderson, in an amount not to exceed \$17,285 for a

design of a pipeline for the Loveland Lake and Ditch Company's irrigation pipeline. Second by Trustee Buckingham.

Trustee Patrick moved to amend the motion to say that staff will continue to explore the funds to be expended to continue to explore our ability to recoup these costs from CDOT or other entities because the initial funds allowed for the Mountain Avenue design did not encompass this scope since it was not understood to be a part of this process at this time. Board members agreed to the modification. The motion passed unanimously.

PERSONNEL MANUAL UPDATE

Administrator White noted that Deputy Clerk Reed attended human resource training and learned that the Town of Berthoud is now required to incorporate FMLA policy stipulations into the manual. In addition to this change, other minor changes were identified and included in the request for amendment.

Trustee Sommars moved to approve the modifications to the Personnel Policy Manual. Second by Mayor Pro-Tem Ashcraft. The motion passed unanimously.

PIONEER PARK PHASE 1 – IMPROVEMENTS (Continued)

Mayor Pro-Tem Ashcraft suggested that the Board needs to give directions regarding how to proceed with Pioneer Park and felt a motion would be appropriate.

Trustee Patrick moved to instruct staff to look at all available options for leveraging the existing funds for Pioneer Park and to do so as quickly as time will permit. Staff will bring this matter back to the Board once it is determined whether additional funding sources are available. If none are available, the Board will consider the bids that were presented this evening. Second by Mayor Pro-Tem Ashcraft. The motion was approved unanimously.

With no further business, meeting adjourned at 10:48 p.m.

Mayor Milan Karspeck

Deputy Clerk Charlene Reed