

TOWN OF BERTHOUD  
BOARD OF TRUSTEES  
REGULAR MEETING  
AUGUST 28, 2007  
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The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, August 28, 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  
Town Clerk Mary Cowdin  
Public Works Director Tony Huerta  
Town Planner 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.

**REPORTS**

Administrator White introduced Lisa Underhill, who has been hired as his Administrative Assistant. She thanked the Board for the opportunity.

Administrator White confirmed that a date has been set for a meeting with the Fort Collins Downtown Development Authority. The meeting will be September 13, 2007 at 10:00 a.m. in Fort Collins.

Administrator White announced that interviews are scheduled tomorrow, August 29, 2007, for the water operator position.

Administrator White announced that the next meeting of the Finance Committee will be Thursday, August 30 at 7:00 a.m.

Administrator White noted we received a letter from Lisa Bauer regarding mosquito control and copies were distributed to the Board.

Administrator White commented on the incident regarding devices found at Town Park and at the Parks and Recreation Building. The Larimer County Bomb Squad assisted us with the disabling of the devices and there were no incidents related to the event.

### **CONSENT AGENDA**

The consent agenda consisted of the minutes of the regular meeting on August 14, 2007 and the minutes of the special meeting on August 21, 2007, the bills allowed for August, 2007, and the financial statement for July 2007.

**Mayor Pro-Tem Ashcraft moved to approve the consent agenda as submitted. Second by Trustee Sommars. The motion passed unanimously.**

### **PUBLIC HEARING – PROPOSED BONDING ORDINANCE**

Public Works Director Huerta requested that the Board approve an ordinance to issue bonds for water and wastewater, to fund the Mountain Avenue Project. Investment banker, Josh Magden, of George K. Baum & Company and bond counsel, Kimberly Casey, from Kutak Rock LLP were present to answer questions.

Mr. Magden summarized the changes to the ordinance based on revised calculations. It has been determined that the Town has the ability to issue further bonds. We have also confirmed that the rate increases planned for December will be adequate, so it may not be necessary to increase rates beyond the anticipated level.

Trustee Gervasi asked for an explanation of the term superior lien loan. Ms. Casey noted that the Town has several loans secured by a general obligation pledge. The loan that is designated as a superior lien loan is secured by user funds. When you take funds from the water enterprise, they are first applied to operations and maintenance, and then the superior lien loan is the first to be funded before any other loans are paid.

Trustee Gervasi asked what is included in Phase 2, and how we anticipate funding that portion of the project. Public Works Director Huerta explained that Phase 2 will provide storm drainage outfall from the western end of Mountain Avenue. Without Phase 2, we would have a problem completing Phase 3. He explained we anticipate applying for grant funds to pay for Phase 2. We cannot apply for grant funds until Phase 1 is started and the grant cycle begins.

**Trustee Buckingham arrived at 7:16 p.m.**

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Trustee Patrick asked if the Town Attorney has reviewed these documents. Attorney Fickel said yes, but indicated it is typical for bond council to do the preliminary review. Ms. Casey confirmed that they have reviewed the documents and support the contents.

Trustee Patrick asked Public Works Director Huerta to explain why these funds are needed. Public Works Director Huerta explained that we are functioning with a sewer system that is in desperate need of attention, due to its condition and age. Earlier this month, we had a site audit by the Colorado Department of Health and the Environment, and they were concerned with the condition of our collection system. When we presented the plans for these improvements, they were less concerned and saw this as the Town's effort to move forward and address these issues. The primary purpose of the funds being requested is to allow us to repair the sewer collection system make it more operable. This will also address the concerns of the Colorado Department of Health and the Environment.

Public Works Director Huerta noted we will be aggressively pursuing grants for Phase 2, and will begin the application process for December, 2007. We were successful in obtaining \$500,000 in grant funds for Phase 1 and hope to also be successful as we move into Phase 2 and 3. Mr. Magden noted we have already been in touch with the Department of Local Affairs and they are expecting us to apply for further grants. He pointed out that by funding Phase 1 and Phase 3 at this time, we will earn interest in the interim, which can be added to the funds in reserve for Phase 3.

Trustee Patrick asked about the potential interest rates for these funds. Mr. Magden noted that rate will not be determined until we are further into the process. He noted we will be applying for AAA bond insurance, which will help us capture the highest interest rate possible. Municipal bond rates have started to rise and that will help.

Trustee Buckingham asked the anticipated cost of Phase 2. Public Works Director Huerta noted we anticipate that cost to be approximately \$360,000. The numbers for all three phases have been adjusted now that we have final plans. The reduction in the amount anticipated for Phase 2 resulted when we changed the route for the project, using existing parkland and open space instead of taking the system down 5<sup>th</sup> Street. That minimizes our cost since we will not be tearing up and replacing the street.

Trustee Buckingham commended staff for looking for ways to reduce costs. He asked for clarification of the remaining amount needed to complete the project. Public Works Director Huerta noted our outstanding amount is approximately \$1M for Phase 2 and the balance of Phase 3, and that is the amount we will be requesting in the grant process.

Trustee Thorstensen asked if the roundabout will be included in this project. Public Works Director Huerta explained that the roundabout is a separate project. We anticipate that it will be done during the same general time period as our Mountain Avenue project.

Mayor Karspeck read the title of the ordinance and opened the floor for public comment. There were no comments from the audience.

Trustee Buckingham noted there is considerable speculation that the Fed will lower federal funds rates, and he asked if it would make sense to delay processing of this request to see what happens in that area. Ms. Casey explained that the Board is approving the issuance of bonds within certain perimeters, and she explained those perimeters. This authority gives us 60 days to complete the process, and we are not committed until the Mayor signs the bond purchase agreement.

Mr. Magden noted the next Federal Reserve meeting is scheduled for September 19, 2007. At that meeting, there is the hope that there will be a reduction in interest. He noted that the treasury market is not moving in step with the municipal market at this time, and there is some risk that there may be an increase in rates in the municipal market. Once this ordinance is approved, it will be three to four weeks before we issue bonds, and we hope to see how the municipal market is performing by that time.

Trustee Patrick noted bond insurance may help us with our interest rates. Mr. Magden agreed and noted that water and sewer bonds are considered to be fairly safe.

**Mayor Pro-Tem Ashcraft moved to approve Ord. 1066 for the issuance of bonds for the Water and Wastewater Enterprise Funds to finance the Mountain Avenue Utility Improvement Project, Phases 1 and 3. Second by Trustee Sommars. All members voted YES.**

**PUBLIC HEARING- PROPOSED ORDINANCE RE: SERVICE CHARGES**

Town Clerk Cowdin explained that it has been many years since we adjusted our service fees. In calculating the proposed fees, we examined our costs and compared the proposed fees to those charged by surrounding communities.

Mayor Karspeck summarized the changes in the rates.

Mayor Pro-Tem Ashcraft expressed concern about the increase in the late fee from \$3 to \$10. He asked what justifies that increase. Town Clerk Cowdin explained the extra activity that is involved in the identification, and collection of past due accounts. This process involves our Utility Billing Clerk and Water Department staff and requires a minimum of three trips to the service address.

Mayor Pro-Tem Ashcraft noted his concern is that this not be a revenue generating process. Town Clerk Cowdin agreed, noting that our goal is to cover our costs.

Trustee Patrick expressed concern about the late fee and the water turn-off/turn-on fee after hours. He felt the \$60 was excessive. Town Clerk Cowdin noted that turn-offs are generally done during normal hours, except in an emergency. She noted when we reconnect water after hours, the majority of the cost is the overtime for our employees. Trustee Patrick noted it should be possible to get in and turn on water in a ten minute period. Town Clerk Cowdin explained that when an employee is called in to turn-on water, we have a minimum on-call cost of one hour.

Trustee Thorstensen asked if there is a grace period for payment of the water bill. Town Clerk Cowdin noted we have a grace period from the 25<sup>th</sup> of the month until we close out the month on the last working day, when the late fee is assessed.

Trustee Buckingham noted the Finance Committee encourages staff to be sure we are recovering our costs for the services we provide, and he asked if this set of fees would allow us to do so. Town Clerk Cowdin noted that is the basis of the fees provided.

Mayor Karspeck read the title of the proposed ordinance. He opened the floor for public comment and there was none.

**Trustee Gervasi moved to adopt Ord. 1067 regarding service charges. Second by Trustee Buckingham. Mayor Karspeck, Mayor Pro-Tem Ashcraft and Trustees Thorstensen, Buckingham, Sommars and Gervasi voted YES. Trustee Patrick voted NO.**

**PUBLIC HEARING – BADER FARM**  
**ANNEXATION & REZONE**

Planner Barkeen explained that the applicants are presenting three items for Board consideration for the Bader Farm Annexation and Rezone, located west of LCR 17 (Taft Ave) and north and south of the 287 Parkway, as follows:

- 1) The Bader Farm Annexation for approximately 184 acres from FA-1 (Larimer County Farming) to T (Transitional).
- 2) The Bader Farm Rezoning for approximately 182 acres from T (Transitional) to PUD (Planned Unit Development) zoning district.
- 3) The Bader Farm ODP for approximately 184 acres consisting of a mixed-use commercial and residential with a maximum 591 dwelling units (3.6 du/ac), park, and open space.

Cameron Grant of W. H. Grant Enterprises, LLC addressed the Board and explained that they are asking for approval for this project. Their goal is to bring the Bader property

into the Town of Berthoud, to achieve the goals of the comprehensive plan and to create a project that can be developed.

Mr. Grant noted there are three key points to consider for this plan, density, viability and whether this plan meets the intent of the comprehensive plan. When considering density, if you look at a calculation based on the approved land use plan, this property can have up to 677 units. They are proposing a lower density, and are hoping to include a wider variety of housing types than would be allowed under the comprehensive plan. He explained that they are trying to create a neighborhood and will be presenting images of homes and businesses that might be a part of this project.

Mr. Grant noted there is a key commercial property on the northwest corner of Taft, and north and south of the 287 Parkway. He pointed out that designating a property as commercial does not bring commercial to the Town. The goal is to provide a location that encourages commercial to become reality.

Mr. Grant noted they want to bring a variety of housing types to the Town. There is already a sufficient inventory of large lot units. This project will bring a wide variety of styles, types and price ranges that will appeal to more people.

Mr. Grant noted the key reason that the Planning and Zoning Commission did not approve the ODP was because the proposal does not match what is on the comprehensive plan map. He suggested that a comprehensive plan is a starting point, and it is important to start at that point and work to achieve the goals in the context of the plan. If our only goal is low density, then he suggested they will have to put together a plan that meets that goal and come back to the Board. He noted they feel they are in compliance with the goals in the comprehensive plan, both residentially and commercially, and they feel the development achieves the vision of the comprehensive plan.

Craig Karn of Consilium Design, the consulting planner for the proposal, presented a power point program that highlighted the features of the proposed plan.

Mayor Pro-Tem Ashcraft asked where this plan differs from the comprehensive plan. Planner Anderson noted if we overlaid this plan with our comprehensive plan, they have expanded densities and land uses by approximately 20%.

Mayor Karspeck opened the floor for public comment.

Dan Casper of Anadarco Petroleum noted they filed a letter of protest on August 23, 2007. He asked that the letter be made a part of the record and that any final approval be subject to a surface use agreement between Anadarco Petroleum and the developer. Planner Anderson noted we have not received a copy of that document, but it will be provided to the Board on receipt.

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Karen Stockley of 316 Bothun Road acknowledged that Berthoud wants to capture these corners for commercial, but noted that this applicant has ignored the separator plan and the densities on the comprehensive plan.

Liz Kearney of 1600 WCR 10E noted that this developer is requesting a reduction in the approved 500 foot buffer required along 287. She suggested if you let one developer narrow that buffer, then the remainder of the developments in the area will request the same. She noted that the density numbers here are significantly higher than what is allowed under the comprehensive plan, and once you allow a higher density, the developer will build what is allowed.

Jeff Franks of 4709 Mountain Vista Court, Loveland, noted that this proposal conflicts with the comprehensive plan in every area. He also expressed concern about the increase in traffic which will occur when this development is complete.

Tanya Webb of 1500 Rancho Way noted that drainage is a problem in this area, and this development will increase this problem.

Susan Hogness of 4808 High Country Road agreed with these concerns, noting they moved out of town to get away from the stores.

Robert Kearney of 1600 WCR 10E noted he observed the development of the comprehensive plan and there was a lot of effort involved in the process. He encouraged the trustees to weigh any significant deviations from the plan very carefully.

Michelle Murrey of Colony Ridge noted there is already a problem with traffic which will be increased when this development is built. She noted they moved to Colony Ridge because they prefer to live in an area where there is less development.

Nancy Lamb of 1101 County Road 19 reminded everyone that it was important to the Town to have separation and an edge to the Town.

Linda Shupe of 2342 Breckenridge Court asked if there are any plans in place to include Berthoud Lake Ranchettes in the Town. She noted they would like to see their water rates go down.

There were no further comments, and the item was returned to the Board for consideration.

Trustee Thorstensen asked the approved density for Colony Ridge. Planner Barkeen noted Colony Ridge was approved a 2.2 du/ac. Trustee Thorstensen noted if the Town does not approve this plan, then the applicant has the option to go through the county. He

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asked what density would be allowed and Planner Barkeen responded that it would be more consistent with the densities allowed for Colony Ridge.

Trustee Thorstensen noted that even though Loveland did not approve the separator agreement, the Board approved that agreement.

Trustee Gervasi expressed concern that only four of the Planning and Zoning Commission members voted on this project. He felt this should have been continued until more members were present. Planner Anderson noted four was a quorum, and because of the time constraints, they went ahead and considered this application.

Trustee Gervasi asked staff's position regarding buffering. Planner Anderson noted the separator agreement was not considered because it was not approved by Loveland. Planning Staff does not consider agreements with other communities that are not formally approved by both parties.

Trustee Gervasi asked if the applicant acknowledges any sort of identifiable buffer. Mr. Grant noted they have respected the buffer along the 287 Parkway, with a buffer varying from 200-400 feet. He pointed out there has been an exception for commercial development along the Bypass. Trustee Gervasi noted he would concede a variance for commercial development.

Trustee Buckingham noted this commercial node is very important for the Town. He noted he would be open to some kind of incentive approach where we hold off on the approval of the multi-family segment until the commercial area is under construction. We have had several projects that come in with both residential and commercial development and only the residential is constructed.

Trustee Buckingham expressed concern that this plan came to the Board without a recommendation from the Planning and Zoning Commission. He suggested this be returned to the Planning and Zoning Commission for a recommendation. Planner Anderson noted there was a strong split between the members of the Planning and Zoning Commission and he felt returning this to the Commission would not result in a different vote. He noted two people were interviewed to join the Commission and as we add new members, we may see a difference in the opinions of the Commission.

Trustee Buckingham noted he would like to see a worksheet filled out for each of these developments that looks at the adequate public facilities aspect of all developments. He suggested that somewhere down the road, we may create problems with our ability to provide water and wastewater services, and we need to monitor where we are in that respect. He felt there was insufficient information provided regarding whether we have adequate public utilities to meet the needs of this development.

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Mayor Karspeck concurred that the Separator Plan was approved by the Board of Trustees and is a viable planning document, even if it was not approved by the City of Loveland. He noted it is important that we have the commercial node and he would be willing to support more density than normal to make that happen. He expressed concern about the costs the Town will incur for road maintenance with this annexation. He also expressed concern that we will be adding stop lights and encouraged to developer to look at the King Soopers on Taft in Loveland to see creative ways to obtained access.

Mayor Pro-Tem noted he likes the mixed densities provided in this plan. He agreed it would be appropriate to provide density incentives for this development if they go forward with the commercial areas. He agreed the separator agreement was thoroughly studied and was adopted by the Town.

Trustee Patrick noted that the comprehensive plan needs to be the starting point in evaluating this proposal and any others, and there must be strong incentives to allow deviation from that plan

Trustee Patrick noted the parkland that is offered in this development does not meet our development code. Open space is not the same as a neighborhood park. Typically, we are looking for a neighborhood park that can be reached by the residents on foot. This development provides an eight acre park, but people within the neighborhood will have to drive to access the park.

Trustee Patrick noted that road maintenance issues are important to the Town. Our Public Facilities Ordinance says that the development must bear these costs. He noted this plan also includes a lift station, and we are trying to get rid of the lift stations we have because of continued problems.

Trustee Patrick noted the corner commercial area was what started the discussion of allowing an exception from the separator agreement. He felt increasing the commercial in the area would be a foot in the door for discussions involving other exceptions. He also noted if you are considering residential in the commercial area, it should be residential above and commercial below, rather than a high density apartment complex.

Trustee Patrick noted Planning and Zoning was asked to define whether the density in the comprehensive plan is gross or net and they responded that it was intended to be gross density. He suggested the applicant work to get a closer fit to the comprehensive plan before this is considered again.

**Trustee Buckingham moved to continue the public hearing for the Bader Farm Annexation, Zoning and ODP to the regular meeting on September 11, 1007. Second by Trustee Thorstensen. The motion passed unanimously.**

The Board recessed at 9:22 p.m. and reconvened at 9:35 p.m.

**PUBLIC HEARING – HERON LAKES**  
**PRELIMINARY DEVELOPMENT PLAN**

Planner Barkeen explained that Jon Turner, Hillside Commercial Group, is presenting four requests before the Board, to include:

- 1) The Heron Lakes preliminary plat for approximately 723 acres of golf course community.
- 2) The Heron Lakes PDP, consisting of 723 acres of golf course community, including residential, clubhouse/resort, neighborhood commercial, parkland, open space, a public school site and a civic/church site.
- 3) A variance to the Town's standard street cross-sections for collector and local roadways; and
- 4) A waiver to the Town's parkland dedication requirement.

Planner Barkeen summarized the changes in the plan, noting that the golf course has been changed to add a driving range, there is an elementary school site, and the applicant has added a future town home tract. There is a request to modify several of the streets within the development, which has been reviewed and approved by the Berthoud Fire Protection District. These street standards will be finalized with the FDP and the final plat.

Planner Barkeen noted the applicant is requesting a waiver to the Town's parkland dedication requirement, due to the amount of open space that is being provided.

Planner Barkeen noted that staff has added another page of conditions and the Planning and Zoning Commission recommended that the golf course be designated as permanent open space and that the Town work with the development to obtain tax credits.

Jim Birdsall of the Birdsall Group, LLC summarized the changes made in the plan since the ODP was approved on May 23, 2006. One of the biggest changes is the relocation of the osprey nest. The Division of Wildlife worked to move the nest in the spring to the original proposed location. He noted that was rewarding experience and the new location is within the heron buffer and will be easier to protect. He noted they have been working with Audobon International to establish a plan for the management of this area.

Mr. Birdsall noted another significant change is that they have obtained the surface and recreation rights to the McNeil Reservoir area. They have been working with the school district to designate an elementary school site.

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Mr. Birdsall noted they are proposing that Little Thompson be a wholesale provider of potable water and that the Town maintain and operate the water system in the area. The Town would pay Little Thompson for the water on a wholesale basis.

Mr. Birdsall noted they are in agreement with the Commission's request that the golf course be made open space in perpetuity. He noted who will hold the open space would be up to the Town and noted they hope to acquire tax credits for the preservation of that open space.

Mr. Birdsall noted they are proposing three neighborhood parks and with a plan that provides 62% open space, they feel they are meeting the intent of the requirement for park dedication.

Mayor Karspeck asked how water rights and water dedication will be handled. Mr. Birdsall noted they will meet the Town's water dedication requirements as if Berthoud is providing the water. They have acquired water for the golf course and will be storing it in the Welch Reservoir. He noted the ability to store water is a good thing since that will provide water for the shoulder seasons of the golf course.

Mayor Karspeck opened the floor for public comment.

Karen Stockley expressed concern about the buffers that are being provided for the heron. She encouraged the developer to increase the buffers to 300-400 feet. She also suggested that boating on the McNeil Reservoir will create problems for the heron.

Liz Kearney of 1600 WCR 10E addressed the Board. She questioned the buffers that are shown on the drawings. The management plan states that there will be 200 foot shoreline buffers and those in the drawings are 100 feet.

Ms. Kearney expressed concern that the silos on the property are going to be removed. Suggesting that they are the only existing silos in Berthoud and there are not many like them around. The silos are a symbol of Berthoud's farming history. She noted this is an opportunity to preserve a piece of Berthoud's history and offered to help apply for grants to restore the silos.

Mina Cox of 841 NCR 19 expressed concern that the County is planning to discontinue maintenance of County Road 19 because of the changes in the roads proposed by this development. She did not feel it is fair that they will have to maintain the road as a private road when this development is built.

Larry Westrom of 563 S. 9<sup>th</sup> addressed the Board, encouraging them to consider a "Dark Sky Ordinance," that would provide for the intelligent use of night lighting. There are

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manufacturers that provide this type lighting and he encouraged the Board to require lighting that meets those goals.

Robert Kearney of 1600 WCR 10E encouraged the Board to require that this developer stay with the approved ODP. He noted the silos are historic structures and are a part of Berthoud's sense of place, comparable to the grain elevator on 3<sup>rd</sup> & Massachusetts. The silos recognize the hard work of the farmers that built the town and he suggested putting a park around the silos and calling it Berthoud Heritage Park.

There were no further comments from the audience.

Mayor Pro-Tem Ashcraft asked what is being lost in the area of parkland. Mr. Birdsall explained that the parks acreage has been increased to 11.6. The discrepancy is between what the code requires and what they are offering. They feel that the park acreage they are offering should be adequate with the amount of open space they are providing.

Mayor Pro-Tem Ashcraft noted access to the Welch Reservoir is an excellent benefit, but should be treated carefully due to the effect boats and people could have on the heron habitat. He felt utilizing dark sky lighting in the area would lessen the impact on surrounding neighborhoods. He noted he would be favor of preserving the silos since they are a part of the history of Berthoud. Mr. Birdsall noted they have already addressed dark sky lighting in their management plan. He also that if you look at the open space tract, the silos are there. They are a unique feature of the site and will not be removed.

Mayor Pro-Tem Ashcraft noted he was originally in favor of keeping open space instead of putting in a golf course. Since the golf course is a part of this plan, he recommended that they do something with Berthoud High School for their golf team. Mr. Birdsall noted Windsor's golf team practices at Jon's other course, and they anticipate they will be making the same arrangement for Berthoud's golfers.

Mayor Karspeck commended the developer for this outstanding design, noting that this is an exciting development for Berthoud. He asked Mr. Birdsall for comments regarding any reductions in the buffers. Mr. Birdsall noted the buffers vary in width. They worked with the Division of Wildlife and the Town's biologist to come up with a plan. Everyone agrees that the buffers should be appropriate to the area where they are located. There are areas that would require a 200-300 foot buffer, depending on what wildlife is in the area. In other areas, a 100 foot buffer is appropriate. The buffers in the PDP are identical or better than those proposed in the original ODP.

Trustee Buckingham noted this project is very important to Berthoud and he is excited to see it shaping up. He noted the plan includes some homes in the area of the rookery and he asked if it would be possible to set these homes back on their building envelope to maximize the distance to the rookery. Mr. Birdsall noted there are two lots that would

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have the most potential impact and the expectation is that those will have the most open space.

Trustee Buckingham noted he is the Board's liaison to the Historic Preservation Commission and he commended the applicant for providing a plan to protect the silos.

Trustee Gervasi noted that when this proposal was originally submitted, Larimer County Road 19 was a part of the plan. Mr. Birdsall agreed, and explained that they proposed to abandon the road and replace it with a collector. That would be a good plan for the Town, but the residents of the area objected so the road was removed from the plan. It was anticipated that the road would stay a county road and remain exactly as it is. The issue is that now the County has decided not to continue to maintain the road. This decision is up to the County, since this is not a part of the development and does not belong to the Town.

Trustee Thorstensen expressed concern that some of the roads they are proposing are the same width as those in Mary's Farm. Mr. Birdsall noted they are the same width, but they only plan to allow parking on one side.

Trustee Thorstensen was pleased that the development includes a church or civic site. Mr. Birdsall noted they feel this would be appropriate for a museum or library annex, or possibly for a public works facility and they are please to have it available for use.

Trustee Patrick noted he is concerned about the problem with County Road 19. Absent this application, the county would continue to maintain that road. This application changed existing uses in the area, which allowed the county to discontinue maintenance. For that reason, the problem with County Road 19 is a part of this process and needs to be resolved.

Trustee Patrick noted this is one of the most pristine developments on a native natural environment that this Board will ever see. It will be a fantastic place to live. He noted he would like to see the area closest to the rookery set aside for later development until we determine what impact the construction and the addition of humans will have on the rookery. He noted if you build on those lots first and there is an impact, you do not have a solution to the problem. He suggested the applicant could even donate those lots to the Town to increase the size of the buffer and take the tax break that would come from that donation.

Developer Jon Turner responded, noting that the project will be phased, and the soonest they will be building in that area will be in approximately five years. He noted that will give us the opportunity to see how well the area handles the development.

Trustee Patrick noted it will be difficult to see the final effects until the development begins in the area nearest the rookery. He encouraged the developer to leave room to

make adjustments and to look for innovative ways to resolve any problems that occur. There are two critical habitat areas in the project and we want to make sure the changes make sense.

Trustee Patrick suggested it might be important to look at the road widths again. In Mary's Farm, when you have cars parked on one side, vehicles in the roadway have to slow down when they are passing in the roadway. If there is ever a need to connect these streets to streets coming from another development, you have to have adequate roads.

Trustee Patrick noted he would be willing to give favorable consideration to using the availability of surface recreations rights on Welch Reservoir to offset a part of the park dedication. He did note he would like to see motors removed from the area, since an increase in traffic might affect the wildlife in the area.

Trustee Patrick noted he does not feel it is appropriate to give tax credits without justification. However, lots that cannot be used because of the rookery would provide a long term benefit to the developer and to the Town and tax credits would be justified.

**Trustee Patrick moved to continue the public hearing for the Heron Lakes Preliminary Development Plan and Preliminary Plat to the regular meeting on September 11, 2007. Second by Trustee Gervasi. Mayor Pro-Tem Ashcraft and Trustee Thorstensen opposed the motion, but all other members voted YES.**

#### **DEVELOPMENT CODE REVIEW**

Planner Anderson explained that the Historic Resources Section was added to the code. He noted the next step that has to occur is to set the public hearing for approval of the development code on the 4<sup>th</sup> of September, and public hearings will be held on the 11<sup>th</sup> and the 25<sup>th</sup> of September. This item is time critical and need to remain on the agenda.

Attorney Fickel summarized changes that will be included in the next review. We are considering adopting this as a code by reference, which will reduce our publication costs.

With no further business before the Board, the meeting adjourned at 11:15 p.m.

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Mayor Milan Karspeck

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Deputy Town Clerk Charlene Reed