

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
FEBRUARY 13, 2007
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The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, February 13, 2007 at 7:00 p.m. in the Board Room at Town Hall. Mayor Karspeck called the meeting to order at 7:00 p.m.

MEMBERS PRESENT: Mayor Milan Karspeck
Trustee Louis Gervasi
Trustee Peder Thorstensen
Trustee Glen Buckingham
Trustee Michael Patrick
Trustee Chase Sommars

MEMBERS ABSENT: Mayor Pro-Tem Don Ashcraft

STAFF PRESENT: Town Administrator Jim White
Town Clerk Mary Cowdin
Intern Emily Kinzer
Water/Wastewater Technician Misty Jones
Planning Director Robert Anderson
Planner Carlin Barkeen
Building Official Patrick Buckley
Public Works Director Tony Huerta
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

Trustee Buckingham reported on the January Historic Preservation Commission meeting.

Administrator White introduced two new employees. The first was Emily Kinzer, Administrative Intern. Ms. Kinzer thanked the Board for the opportunity to complete her internship in Berthoud. Administrator White noted she is an intern from the Best and Brightest program, a partnership between the University of Colorado at Denver and the Department of Local Affairs (DOLA).

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Administrator White introduced Misty Jones, the new Water/Wastewater Technician. Ms. Jones thanked the Board for the opportunity to work with the Water and Wastewater Departments and to follow in the footsteps of her father and grandfather, Thomas and Tom Jones.

Administrator White reported that we received a response for the Bureau of Reclamation and a meeting has been scheduled. He will provide the specific scheduling information to the Board.

Administrator White noted that the Town sent a letter to Poudre Valley REA regarding our interest in municipalizing electrical service to Berthoud. There is a meeting of the Poudre Valley Board on February 28, 2007 where this will be discussed, and he asked the Mayor to plan to attend the meeting to discuss this with their Board.

Administrator White announced that there will be a presentation, the Romance of the High Peaks, by the Historical Society 7:30 p.m. on February 14, 2003 at the Community Center.

CONSENT AGENDA

The consent agenda consisted of the minutes of the regular meeting of January 23, 2007, the bills allowed for January 2007, the financial statement for December 2006 and the Sidewalk Design.

Trustee Buckingham moved to approve. Second by Trustee Sommars.

Attorney Fickel noted there is a pending issue with the sidewalk design and felt it would be appropriate to remove the item from the consent agenda for consideration at a future meeting.

Trustee Buckingham amended his motion to remove the Sidewalk Design. Second by Trustee Sommars. The amended motion passed unanimously.

DISPLAY OF AMERICAN FLAG ON TOWN OF BERTHOUD PROPERTY

Mayor Karspeck noted there have been inconsistencies in the display of the flag on Town property and some of the flags have been in less than ideal condition. He recommended that the Town adopt the stipulations in the U. S. Code, Title 4/Chapter 1, regarding the U. S. flag, protocol, and its care for the flags on the Town property. He noted this code indicates when the flags are to be placed at half mast, and that the Town Clerk will be responsible for notifying the appropriate department director(s) of the need to fly the flag accordingly.

Administrator White noted that the Town has replaced several flags and ordered several flags to replace others that are in disrepair. We are also working on making improvements in the illumination of the flags. He noted that the Boy Scouts have ceremonies to dispose of flags that have been replaced, and he introduced Michael Henning and his son from Troop 6. Troop 6 will dispose of the flags that have been replaced.

Mayor Karspeck moved that the Town of Berthoud follow the stipulations in the U.S. Code, Title 4, Chapter 1, regarding the U.S. flag, protocol, and its care for the flags on the Town of Berthoud property, and take necessary steps to ensure consistency of such care. Second by Trustee Sommars. The motion passed unanimously.

PROCLAMATION – SCHOOL TO CAREER MONTH

Mayor Karspeck read the proclamation designating February, 2007 as Career & Technical Education Month.

TEMPORARY LIQUOR LICENSE – WAYSIDE INN

Town Clerk Cowdin noted that the Wayside Inn changed hands several months ago and are requesting a temporary liquor license to open. Statute allows the local licensing authority to issue a temporary liquor license to an establishment that has a current license in good standing. All paperwork for the permanent transfer must be received and there are outstanding items for this license. She asked that the Board approve this temporary license pending receipt of the outstanding information. A temporary license is valid until the transfer of ownership is approved or denied by the State or for 120 days, whichever occurs first.

Mayor Karspeck asked the status of the training classes being put together by the Police Department. Ms. Cowdin noted those classes are scheduled for the near future, and will be available to all businesses with liquor licenses in the Town.

Trustee Buckingham moved to approve the temporary license for the Wayside Inn, subject to receipt of outstanding documents. Second by Trustee Gervasi. Trustee Patrick abstained and all other members voted in favor of the motion.

THE SETTINGS – DEVELOPMENT AGREEMENT

Planner Barkeen explained that Jim Simpson, the applicant, and the Town have completed a Development Agreement and she summarized the document.

Trustee Buckingham moved to approve the Development Agreement for the Settings Subdivision. Second by Trustee Sommars. The motion passed unanimously.

SET PUBLIC HEARING – FLOOD DAMAGE PREVENTION ORDINANCE

Administrator White noted the purpose of this item is to set a public hearing to consider the proposed flood damage prevention ordinance.

Trustee Sommars moved to set the public hearing to consider the proposed flood damage prevention ordinance for February 27, 2007. Second by Trustee Buckingham. The motion passed unanimously.

**BERTHOUD FIRE DISTRICT RESOLUTION RE:
NATIONAL INCIDENT MANAGEMENT SAFETY**

Fire Chief Steve Charles addressed the Board and asked that the Town approve the National Incident Management System as directed by Homeland Security Presidential Directive 5.

Mayor Karspeck asked if there are options to modify this if there are problems with this resolution. Chief Charles noted the resolution can be modified or dissolved if there are issues that need to be addressed.

Mayor Karspeck moved to approve the National Incident Management System as directed by Homeland Security Presidential Directive 5 in an effort to establish a nationwide approach for Federal, State, local and tribal governments to domestic incidents, regardless of cause, size, or complexity. Second by Trustee Thorstensen. Trustee Buckingham voted NO and all others voted YES and the motion carried.

The Board recessed at 7:30 p.m. and reconvened at 7:45 p.m.

GATEWAY NON-POTABLE WATER PLAN AGREEMENT

Public Works Director Huerta noted that negotiations have been ongoing since June 2006 and this agreement is the result of those negotiations.

Todd Williams, P.E. of Williams and Weiss Consulting, LLC addressed the Board regarding the proposed agreement for the Gateway Development. He presented a summary regarding the questions/concerns raised by the Board at the meeting on August 22, 2006, and summarized the information provided in that letter, dated February 5, 2007.

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Mayor Karspeck noted the developer has approximately half of the required Welch shares and he asked if there will be a problem getting the remainder of the shares. Mr. Williams noted there appear to be shares available and they will obtain the remaining shares once this agreement is approved.

Attorney Fickel noted this was discussed previously and he proposed that the Board approve this agreement for a year and then consider this again to make sure it is working properly and that the numbers in the agreement are appropriate. He noted the one issue of concern is that the Town is holding tap fees. We have been charging the full raw water and tap fees for this development and we are considering refunding the overages. Mr. Williams noted all those fees have been paid by the builders, not by the developers. Any letter of credit would be required of the builders.

Trustee Buckingham felt it would be appropriate to approve this for a specific period of time and as the development builds out, monitor the percentages. He noted the non-potable water in this system has particulate and matter and may not be suitable for use. Mr. Williams noted if the system is designed correctly and the water is properly filtered, the problems should be resolved.

Trustee Patrick noted this pond is smaller than the initial plans proposed, so that any area set aside would still be within the original plans. Mr. Williams suggested a better solution would be to use the Loveland Lake as a carryover pond and maintain the smaller pond on site for storage.

Trustee Patrick noted that the new proposal is completely different than the original proposal. The original proposal had a 15 acre-foot pond and now we have a pond that is one-fifth that size. We have a complete change in supply method. The non-potable water rights have not been acquired. There is a proposed change in the calculation method and at the same time, we have a system that is using potable water as fill-in. This adds to demand on the Town's water system. When this was proposed we had a water dedication requirement higher than is required today, and if we reduce this requirement, we are looking at a water dedication fee of approximately .55 acre feet. He suggested there is not adequate data to set these percentages and he felt it would be appropriate to follow the Town Attorney's suggestion and approve this for a specific amount of time. He also suggested that an additional default remedy for the Town would be to withdraw the reduction if this is not deemed appropriate.

Mr. Williams addressed these issues, noting that the water not obtained is the CBT, and that is a small percentage that is still outstanding. He noted they are asking for fill-in water in March, April and October, which are not usually peak months for the Town. Mr. Williams noted he can pull more data that is comparable using information from other areas to generate numbers that would be appropriate.

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Attorney Fickel noted that the Board recommended that this development use a non-potable system and we need to give them the opportunity to make this work. If this is evaluated every year there are funds held in escrow, then we can make modifications in the future which would be based on a larger development, with more homes. Once the development is complete, or as we increase the number of homes in the development, then we will be able to see what we need to be charging.

Trustee Patrick noted that anytime an entity asks for a specific reduction, then the burden is on the entity to explain why the reduction is appropriate. This system did not work as intended from the beginning, so we need to gather information to determine how this will work before making a final decision regarding the reductions being requested.

Trustee Buckingham suggested it would be appropriate to approve this for a period of time and then look at this further to be sure it continues to work and be appropriate.

Mr. Williams noted the most reliable source for a non-potable system is the Handy Ditch and that would provide water through Loveland Lake. He noted they have tried to quantify the amount of water necessary to support this non-potable system. The second issue has been problems with the pump and that has been addressed. He noted the pond was not lined sufficiently and that has been addressed. The current pond size is appropriate and there must be water left in it for the winter to protect the pond.

Mr. Williams noted there should be notification to new owners regarding what is necessary with regards to the type of equipment necessary to make this system work, and the property owners, both present and future, must be notified. He noted from a reliability standpoint, with the changes made, the system should be better.

Jim Lauffenberger of 1402 Glacier Avenue noted there are five homeowners in Gateway Park at this time. Their sprinkler systems are provided by the home builders and they are not allowed to utilize potable water. He noted he has had problems with a plugged sprinkler system.

James Smith addressed the Board representing the ownership group for Gateway. He commended Mr. Williams for his efforts in working to resolve these problems. He thanked Mr. Lauffenberger for his comments. He noted the changes that have been made should resolve many of the issues with this system. He noted they have also addressed the notification issues with existing and future owners. Their hope is that once this agreement is approved, they will be able to encourage other builders to help them complete this development.

Trustee Patrick suggested that until the development builds out, the Town continues to collect the full fees and put a portion of these fees in escrow for future refunds. He felt

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the numbers provided are not accurate and the Town needs a bigger sample to determine what the appropriate percentages should be.

Mayor Karspeck felt it would be appropriate to give credit to encourage this development to build out. He suggested that the Board approve a 25% reduction at this time, with further review to determine if the larger percentages are appropriate. The Town shall collect 75% of the current fees with further discounts subject to further review.

Attorney Fickel agreed that would be appropriate, and the 25% should be refunded to the builders from the escrow accounts and he modified the agreement.

Attorney Fickel provided modified wording for paragraphs 4, 5 and 9 for Board approval.

Trustee Buckingham moved to approve the proposed Gateway non-potable plan and the Gateway Non-Potable Irrigation System Agreement with the amendments recommended by Attorney Fickel to paragraphs 4, 5 and 9. Second by Trustee Thorstensen. The motion passed unanimously.

Mr. Williams explained his recommendations to Loveland Lake and Public Works Director Huerta noted that the Loveland Lake and Ditch Company met with an attorney. That attorney is drafting language to include those recommendations and that will be considered at next month's meeting.

Board members reviewed future agendas. Mayor Karspeck asked when there will be another joint meeting with the Planning and Zoning Commission. Planner Anderson will be coordinating another meeting in the near future.

With no further business, the meeting adjourned at 9:15 p.m.

Mayor Milan Karspeck

Deputy Clerk Charlene Reed