

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
NOVEMBER 27, 2007
Page 1 of 9

The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, November 27, 2007 in the Board Room at Town Hall. Mayor Pro-Tem Ashcraft called the meeting to order at 7:00 p.m.

MEMBERS PRESENT: Mayor Pro-Tem Don Ashcraft
Trustee Peder Thorstensen
Trustee Glen Buckingham
Trustee Michael Patrick

MEMBERS ABSENT: Mayor Milan Karspeck
Trustee Louis Gervasi
Trustee Chase Sommars

STAFF PRESENT: Town Administrator Jim White
Town Clerk Mary Cowdin
Police Officer Michael Eaton
Police Officer Jason Tope
Chief of Police Glenn Johnson
Public Works Director Tony Huerta
Town Planner Robert Anderson
Town Attorney Bruce Fickel
Deputy Town Clerk Charlene Reed

PLEDGE OF ALLEGIANCE

Mayor Pro-Tem Ashcraft led the pledge of allegiance.

CITIZENS PARTICIPATION

There were no items presented from the audience.

REPORTS

Administrator White introduced Jason Tope and Matthew Eaton, two new Town of Berthoud Police Officers. Mayor Pro-Tem Ashcraft issued the oath of office to the new officers. Officer Tope and Officer Eaton introduced themselves.

Administrator White noted that the efforts to transition police dispatch from Larimer County to the City of Loveland will extend beyond the beginning of the year 2008, and should be complete by the end of the first quarter. The Larimer County Sheriff's Department indicated that they would be charging \$40,000 for dispatch services for 2008, so we anticipate paying \$10,000 for the first quarter, before the transition takes place.

Administrator White noted that we are attempting to find an entity interested in paying for our shares in NISP. If we can find someone willing to purchase those shares, we hope to recover at least some of our investment. So far, this effort has not been successful.

Administrator White noted the final 2007 "Coffee with Jim" will be held this Saturday morning at the Jumping Bean. Also on Saturday, the Berthoud High School Spartans will be competing for the state championship in football and we wish them well.

Attorney Fickel noted that the Town has a jury trial beginning on Wednesday, November 28, 2007. Power and Communications bored through our water line on County Road 17, and they are not willing to make restitution.

Administrator White noted the final meeting for 2007 is tentatively planned for Tuesday, December 11, 2007. We may need to adjust the mill levy at that meeting.

CONSENT AGENDA

The Consent Agenda consisted of the minutes of the special meeting held on November 6, 2007, the regular meeting held on November 13, 2007, the special meeting held on November 15, 2007 and the bills allowed for November 2007.

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

LIQUOR LICENSE RENEWAL – BERTHOUD WINE & SPIRITS

Town Clerk Cowdin explained that this item was removed from the Consent Agenda and listed as a separate item because this business had a second violation for selling to a minor. The State of Colorado Liquor Enforcement Division sited Berthoud Wine & Spirits for a code violation in August of this year. A copy of the Order to Show Cause, Notice of Hearing, and Forfeiture Action and the Stipulation, Agreement and Order were included in the packet.

Mayor Pro-Tem Ashcraft asked what punishment was levied by the State. Town Clerk Cowdin explained that they received a 16 day suspension of license. They were closed five days from November 6 through November 10, 2007, and the remaining eleven days will be held in abeyance for a period of one year from the date of approval of the agreement, pending no further violations of the Colorado Liquor Code during this period.

Attorney Fickel noted the Board of Trustees if the Liquor Licensing Board for the Town. If the Board wants to take further action as a result of this incident, then we need to set a hearing date and advise the applicant of potential sanctions. If the Board does not intend to take further action, then we can go forward with the license renewal.

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
NOVEMBER 27, 2007
Page 3 of 9

Trustee Patrick asked if it is necessary to hold a hearing to discuss this further. Attorney Fickel noted a hearing is necessary if the Board wants to impose additional sanctions.

Trustee Patrick noted this is two consecutive years with the same violation and if the Board wants information regarding the details, then that will need to be done in a hearing. Attorney Fickel noted a hearing will be necessary if the Board feels that the penalties imposed by the Liquor Enforcement Division of the State of Colorado are not adequate.

Trustee Buckingham noted the last time we had a sting, the Board asked that the Liquor Enforcement Division work with local law enforcement on this type of sting. He asked if this was done. Town Clerk Cowdin noted we are informed in advance when they plan a sting, and then they let the Town know what has occurred. Trustee Buckingham noted he feels that the Liquor Enforcement Division has administered the appropriate penalties and assessed this situation. They have done due diligence regarding what occurred and issued fines and suspensions. He noted if there is another incident of this type, then it would be appropriate for the Board to take further action. Attorney Fickel suggested that local officers monitor the situation to be sure that no further incidents of this type occur. Trustee Buckingham felt that would be appropriate.

Trustee Thorstensen felt he is comfortable with what has been done and he agreed it would be appropriate for our officers to monitor this situation.

Trustee Patrick noted that what has occurred here is a plea bargain. They reached an accommodation with no hearing, and there is no detail of the facts and circumstances. He noted the state made allegations and the business agreed to a penalty. He expressed concern that this has happened both times the Liquor Enforcement Division has checked on business in Berthoud in the past two years. He felt it is important for the Board to determine if this is something that needs to be addressed.

Mayor Pro-Tem Ashcraft asked if the Berthoud Police Department can assist with education for this employer and his employees. Police Chief Glenn Johnson noted following the last incident, there was a training class offered and none of the businesses in Berthoud participated.

Trustee Buckingham asked if the Police Department has the ability and knowledge to conduct random inspections of this business to monitor compliance. Chief Johnson noted that is something that can be done by our officers, and we have the equipment available.

Mayor Pro-Tem Ashcraft invited the applicant to address the Board regarding this issue. Jalal Shirazi Beheshti, the owner of Berthoud Wine and Spirits, apologized for what happened. He noted he has had this store over four years and he was not involved in this incident. He noted this involved the same employee both times, and training has occurred to prevent this from happening in the future.

Trustee Patrick asked if this was the same employee on both occasions. Mr. Beheshti said the incidents involved two different employees.

Trustee Buckingham moved to approve the renewal of the liquor license subject to subsequent discussions by the Board in an executive session to determine if the Board feels that additional action needs to be taken.

Town Clerk Cowdin noted the Board can postpone this until the December 11, 2007 meeting, since the license does not renew until January, 2008.

Trustee Patrick felt it would be more appropriate to continue this to the next meeting.

Trustee Buckingham asked if it is possible to renew the license and then retract the renewal if the Board determines that further action is needed. Attorney Fickel noted it would be more appropriate to continue this and determine what action needs to be taken.

Trustee Buckingham withdrew his motion and moved to continue this item to the meeting on December 11, 2007. Second by Trustee Patrick.

Trustee Buckingham noted that the Board needs to focus on finding a solution to this problem. Mayor Pro-Tem Ashcraft felt education is important in resolving this situation.

Trustee Patrick suggested an amendment to the motion to set a hearing for December 11, 2007. This will allow the Board to ask questions and take appropriate action.

Mayor Pro-Tem Ashcraft asked if it would be appropriate to request information from the Liquor License Division regarding this incident. Town Clerk Cowdin agreed to contact them to see if that is appropriate. Attorney Fickel noted that would be appropriate if the Board intends to go forward with a hearing. He suggested that mandatory education would be appropriate in this instance.

Trustee Thorstensen felt the action taken was appropriate based on guidelines in place at the Liquor Licensing Division and he felt that further action would be micromanaging. He felt the Board should approve the license extension as submitted.

Board members voted. Mayor Pro-Tem Ashcraft and Trustees Patrick and Buckingham voted YES. Trustee Thorstensen voted NO. The motion passed and the license renewal is continued to December 11, 2007.

MCWHINNEY LAND CONVEYANCE

Administrator White noted that Troy McWhinney, as Principal of WRB Investments, LLC, indicated that they plan to convey a parcel of land east of I-25 on County Road 44 in Weld County to the Town of Berthoud. At this meeting, the Board is being asked to accept the conveyance of this property contingent upon the recording of the minor subdivision plat and the rezoning map, which was done today. He noted Mr. McWhinney has requested that the conveyance be subject to a 25 year right of first refusal if the Town should decide to sell this property.

Mr. McWhinney explaining that he is asking that if the Town is considering selling the property to a for profit entity, that they be given the right of first refusal. If they decided to purchase the property from the Town, they would pay a fair market value.

Attorney Fickel noted we will need to prepare a formal right of first refusal and that document can be recorded at the same time as the conveyance, if the Board agrees to this request. He asked that the Board authorize the completion of this transaction.

Trustee Patrick moved to accept the conveyance of Lot 1 and Lot 2 of the Betz Baird Minor Subdivision, Second Filing, Town of Berthoud, County of Weld, State of Colorado, subject to reservations agreements and restrictions of record, and existing easements, if any, and with the inclusion of a right of first refusal for a 25 year term for any sales to third party for profit entities with directions to Town counsel and to the conveyor to prepare a document to be recorded at the same time as other documents. Second by Trustee Buckingham. The motion passed unanimously.

**PUBLISH HEARING ORDINANCE RE:
RECYCLING REQUIREMENTS FOR TRASH HAULERS**

Public Works Director Huerta noted this proposed ordinance is based on the motion and discussion at the November 13, 2007 Board meeting. This ordinance has an emergency clause to allow time for the trash haulers to provide the documentation listed in the ordinance. Staff will notify current licensed trash haulers of the new regulations and include a copy of the ordinance. He read the proposed ordinance.

Trustee Patrick and Trustee Buckingham requested several changes to the proposed ordinance.

Trustee Buckingham asked what the Town can do to recover the costs of damage to our streets caused by the trash vehicles. Public Works Director Huerta noted he will contact other communities to determine what they are doing to resolve this situation.

Mayor Pro-Tem Ashcraft noted at a state level, the gross vehicle weight is used to determine the fees that are charged. He noted he would like to find a way to offer organic waste recycling as a service to the Town.

Trustee Thorstensen asked if the existing recycle area is being moved to the transfer station. Public Works Director Huerta noted that is being done now.

Mayor Pro-Tem Ashcraft encouraged staff to discuss the potential increase in traffic to the transfer station with the Berthoud Gun Club.

Mayor Pro-Tem Ashcraft opened the floor for public comment.

Michael Pointar of Waste Management noted the whole idea of going to a single trash hauler is to limit the amount of traffic which should limit damage on the roads. He noted it is difficult to determine how much damage is done on the roads by the trash haulers, since there are other trucks utilizing the same roads. He offered to investigate to determine if there is a way to quantify the damage.

There were no further comments from the audience.

Trustee Buckingham noted staff will need to cross check for compliance. He noted there are a lot of factors that are not considered when we look at this service. He suggested adding an administrative charge to recover our costs in enforcement. Trustee Patrick suggested this might be done in the form of a fee per truck per weight per year.

Mayor Pro-Tem Ashcraft noted we must also be careful with asking for additional fees since those costs will be passed on to our residents.

Trustee Patrick moved to approve ordinance 1079 requiring residential trash hauling companies to provide recycling services with the following changes.

Section 1 shall be modified to state, “Any company providing residential trash-hauling services within the Town of Berthoud is required to include, at a minimum, weekly recycling services for paper, cardboard, glass, plastic, aluminum and steel cans as part of their trash-hauling services, unlimited in volume for residential customers.

The phrase “if greater than those mandated in paragraph 1” will be added to item number 1 under Section 2.

Item number 3 under Section 2 was modified to state that “the rate the bundled trash pickup and recycling for residential homes, duplexes and apartments.

Section 4 shall state that there “shall be a fine of up to \$300 per day per contracted residence for which these recycling services are not included in that resident’s trash hauling services.”

Second by Trustee Buckingham. The motion passed unanimously.

It was noted that there were not enough members voting to approve the ordinance with an emergency clause. Attorney Fickel noted that the emergency clause will come out and the ordinance will go into effect 30 days after publication. Town Clerk Cowdin noted she will try to get this published this week, so the ordinance will be in effect prior to January 1, 2008. Attorney Fickel suggested the Board make a motion to pass this ordinance without the emergency clause.

Trustee Patrick moved to remove the emergency clause and pass Ordinance 1079 as previously amended. Second by Trustee Buckingham. The motion passed unanimously.

APPROVE SNOW ROUTE

Public Works Director Huerta noted the multiple storms experienced at the end of 2006 and the beginning of 2007 significantly impacted our community. The frequency and magnitude of these storms overwhelmed our limited resources. As a result, the Public Works Department initiated a drive to have all Public Works staff who are able and capable to obtain their commercial drivers license and they are being trained to operate our snow plow equipment.

Public Works Director Huerta noted the maps presented identify the snow routes that we are proposing. He thanked the Public Works Department staff for their efforts in putting this plan together.

Mayor Pro-Tem Ashcraft asked if this plan has been shared with the Fire Department. Public Works Director noted the maps came from previous discussions with the Fire Chief and we anticipate further discussions with him regarding this plan.

Trustee Buckingham asked if this plan has been reviewed by the Schools. Public Works Director Huerta noted they will be informed of the plan, but he pointed out in major storms where this plan would be initiated, the schools are generally not open.

Trustee Thorstensen asked why we are including Highway 56 out to I-25. Public Works Director Huerta noted we have an agreement to share that responsibility with CDOT.

Trustee Patrick moved to approve the proposed Major Snow Storm Event Plan and Snow Route Map. Second by Trustee Buckingham. The motion passed unanimously.

EXECUTIVE SESSION

Mayor Pro-Tem Ashcraft noted the Board will be adjourning to an Executive Session for negotiations.

Trustee Buckingham moved to adjourn to an Executive Session for negotiations. Second by Trustee Thorstensen. The motion passed unanimously.

The Board adjourned to an Executive Session at 8:30 p.m. and reconvened at 9:15 p.m.

LEHMAN PRESS PROJECT

Administrator White explained that Lehman Communications publishes two daily newspapers equidistant from Berthoud: the Longmont Daily Times Call and the Loveland Reporter Herald. They own land on 2nd Street and hope to build a \$20 million printing facility at that location. The Board is being asked to consider offering incentives for this new business as it will bring 86 jobs to the Town of Berthoud.

Ken Amundson, editor and general manager of Lehman Press, addressed the Board. He thanked the Board for considering this project, and suggested that a project of this magnitude will help bring further commercial to the community. He explained the abatements they are requesting.

Board members were pleased to welcome the Lehmans to Berthoud and very excited with this opportunity. They noted they have asked staff for specifics regarding the incentives being requested.

Mayor Pro-Tem Ashcraft noted all the Board members present this evening have agreed to support this partnership, but they have requested additional information from Staff prior to making a decision regarding these incentives.

Administrator White thanked the Northern Colorado Economic Development Corporation and the Berthoud Economic Development Council for their assistance in bringing this opportunity to Berthoud. He noted the message is clear, the Board is supportive and the question is not if this can be done, but how it can be done.

Mr. Lehman thanked for the Board for their positive comments and noted they have great hopes for this partnership. He noted they hope to bring employees and customers to Berthoud and hope this will be a good project for everyone.

RESIDENTIAL ARCHITECTURAL STANDARDS

Planner Anderson noted that the comprehensive plan grant requirements were established as a priority over the residential architectural standards and review of them was postponed. As the comp plan is now complete, the proposed residential standards are attached for review, consideration and action. Planner Anderson noted he reviewed the standards that were approved for Wilson Ranch and he distributed copies of an article regarding guiding growth in a booming suburb. He asked that the Board consider these documents and suggested a study session if the Board would like the opportunity to discuss these standards in depth. He noted if the Board does not have questions, he would like to go forward with a public hearing to get these standards adopted into the municipal code. He explained the version dated October 12, 2006 were supported by staff and recommended by the Planning and Zoning Commission.

Mayor Pro-Tem Ashcraft asked if this needs to be reviewed or if the Board is ready to go forward with approval.

Trustee Buckingham noted there have been prior trustees who were not in favor of taking guidelines and making them standards.

Mayor Pro-Tem Ashcraft noted the proposed standards started with documents that came from the Wilson Ranch development manual. The goal was not to end up with a sea of tan and taupe houses and garages that are all the same. One of the concerns is that when you establish standards, you eliminate creativity.

Planner Anderson noted the language in the proposed documents sets standards that are easily outlined and do not stifle innovation. The things we do not want to see are specifically addressed, but the plan is designed to encourage creativity. He suggested that Board members review this document and at the meeting on December 11, the Board can decide whether to go forward.

With no further business before the Board, adjourned at 9:47 p.m.

Mayor Pro-Tem Don Ashcraft

Deputy Town Clerk Charlene Reed