

TOWN OF BERTHOUD
BOARD OF TRUSTEES
REGULAR MEETING
JULY 8, 2008
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The Town Board of Trustees met in a regular session at the Berthoud Town Hall on July 8, 2008 with Mayor Tom Patterson presiding. The meeting was called to order at 7:02 p.m.

Members Present: Mayor Tom Patterson
Mayor Pro-Tem David Gregg
Trustee Glen Buckingham
Trustee Michael Patrick
Trustee Dick Shepard
Trustee Jeff Hindman

Members Absent: Trustee John Bauer

Staff Present: Town Administrator Jim White
Town Clerk Mary Cowdin
Town Attorney Bruce Fickel
Planning Director Robert Anderson
Planning Technician Sue Bowles
Public Works Director Tony Huerta
Police Chief Glenn Johnson
Library Director Sara Wright
Museum Director Tom Vaughan

PLEDGE OF ALLEGIANCE

Mayor Patterson led the Pledge of Allegiance.

CITIZEN PARTICIPATION

Scott Banzhaf suggested that the Town consider creating an improvement district in the downtown area so that all of the sidewalks could be completed in a comprehensive manner to prevent the "quilt" effect. This would help attain the goal of giving the Town the pedestrian friendly feel and appearance it is striving for. The small improvement district could be funded by the Town with an assessment to the property owners included on their utility bills over a period of up to 10 years. The area Mr. Banzhaf is referring to is the area from 2nd Street to 4th Street on Mountain Avenue which he has roughly estimated to cost around \$58,000 dollars. The final finish is what people will remember about this project, and it will keep the downtown the focus of Berthoud which was a goal of the Board. It makes sense to take this window of opportunity while construction is under way.

Public Works Director Tony Huerta thought the idea had some merit and suggested it come back to the Board.

There was some discussion on whether this should be mandated, or voluntary. Mayor Pro-Tem Gregg suggested having Eric Boyd with the Main Street program look into this.

Trustee Buckingham suggested taking it to 1st Street since we have an increasing population that lives east of that area, and they don't have easy access to downtown from a pedestrian perspective.

Mr. Banzhaf agreed it could be incorporated when the roundabout project is underway.

Trustee Hindman expressed his concern that with all the construction already going on, tearing up sidewalks in front of someone's business may be an issue.

REPORTS – BOARD MEMBERS

Mayor Pro-Tem Gregg reported that he attended the MPO conference last week which was a joint meeting with Regional Air Council. They were posing the question to Larimer County communities whether to restart a vehicle inspection program of some kind. They are asking for feedback by August 8th.

REPORTS - STAFF

Administrator Jim White reported on the changeover in converting to Loveland dispatch. Most of the work in the transition has taken place, but there are still some issues, so it will probably be the 4th quarter before the transition from Larimer County to Loveland.

Administrator White reported there will be a goal setting session on July 15th at 7:00. After some discussion, it was decided to hold the meeting in the Library Conference Room.

White reported that the International Institute of Education is bringing a Japanese contingent to Berthoud on July 14th from 1:30 – 4:30. They wanted to focus on issues that affect the elderly, so Elnora will meet with them, and then there will be a tour on the BATS bus. Then on July 25th there will be contingent from Europe and China. White noted that it is unusual for a small town to be involved, typically it's large cities like Washington DC or New York City.

White handed out Invitations to elected officials from the League of Women Voters for a picnic they have planned on Friday, July 18th.

Public Works Director Tony Huerta updated the Board on activities going on in Public Works; the Mountain Avenue project is working on the sewer main in the core part of town and the water main in the east part of town. It started out slow, but we're moving in the right direction. Huerta addressed the question of incorporating a non-potable water line into the project. We have been looking at that but the problem is a municipality has obligations with what they can put in public right of way and must maintain separations between utilities. In order to meet those separations, we'd have to hire an engineer to design the system. The only thing it could possibly be put in is the storm sewer, however that doesn't run the entire length of the project. Public Works Director Huerta passed out a cost estimate for the work and he then showed on a map the area the Town has been looking at for running a non potable system. He noted that the Town

has been in discussions with the school district regarding a joint system, and have discussed utilizing the Town's shares in Loveland Lake. He suggested that in lieu of putting the system in the Mountain Avenue project, he would prefer to wait and work out the details with school district and partner with them in a joint project.

In regards to the sidewalk issue brought up by Mr. Banzhaf, this would warrant looking into. There is some time to explore that option since that is close to the last thing that would be done on Mountain Avenue.

In regard to the roundabout, we are still in a waiting mode for CDOT to approve the right of way plans. As far as property acquisition, CDOT has given the go ahead for the south side but not the north side. Once those are done, we can go ahead with the planning end.

RFP's will be going out later this month for the water line that needs to be replaced on Lake Avenue between 3rd and 4th Street. Also RFP's are going out later this month for resurfacing of Lake Avenue between 3rd and 6th Streets.

Another project that was being considered was replacement of the water line on Bunyan Avenue from 4th to 10th Streets, but with the magnitude of what we have going on, we may have to put that off another year. Kids will be going back to school shortly and we don't want to have the street torn up.

The digester has quit working at the wastewater facility, and we will have to get it up and running within 2 weeks. We have contingency plans in place if it can't be done in that time frame.

Administrator White handed out an economic profile provided by Larry Burkhardt from Upstate Colorado from the meeting last week when he made a presentation to community members including some of the Trustees and business owners and a list of points of consideration that he was asked to put together. There were a lot of ideas discussed in terms on the need for economic development in the town. The theme of the meeting was that whether you own a business in town, or whatever your calling is, all citizens make up the fabric of the town. Another meeting date was set for July 16, 2008 at 4:00 p.m. in Town Hall. When the Berthoud Economic Development Committee met last Monday, several members volunteered to be a part of the new Committee, including Don Ashcraft, Gary Maggi, Mark Chaffee and Jim Birdsall. The Committee could also include someone from the school district and from the Main Street program. The Committee could include two or more Board members.

CONSENT AGENDA

Trustee Buckingham moved to approve the Consent Agenda. Second by Mayor Pro-Tem Gregg.

Trustee Hindman asked for corrections to the minutes of the meeting of June 24th. On page 6, after the paragraph that mentions Trustee Hindman, he suggested it should be noted that it was brought up that the new board was not notified. Also, in the next

paragraph it says "it was determined" in discussion. Trustee Hindman disagreed that it was determined in discussion because he disagreed with that point. It was determined by the vote that that's what the rest of the board felt.

Trustee Buckingham modified his motion to include those comments. Second by Trustee Hindman.

Administrator White suggested changing the wording to say "by the vote" rather than "in discussion". He also recommended that the tape be checked and put a quote in there that gets it as close to that meaning as possible.

Trustee Buckingham amended the motion again. Second by Trustee Hindman. All members voted YES.

Trustee Buckingham moved to approve the consent agenda. Second by Mayor Pro-Tem Gregg. All members voted yes.

LIBRARY

Library Director Sarah Wright addressed the Board asking for support of a resolution requesting the formation of a library district. In the November 2007 election, voters supported formation of a library district, however, the funding questions failed by six votes. They have been exploring ways to pursue this, and have decided to move forward with the legal formation of the district and then have the question on the ballot in November to fund it. The second part to this formation is that it needs to be approved by the Town and Larimer County. We will go to the county to ask for the same approval. In regards to the funding, it would continue as it is now, and would then be funneled into the district.

Administrator White elaborated that this would expand the tax base out into Larimer County. There would be no financial difference for the town than there is now. That would not be true for the county which would have a 2.4 mill increase.

Patterson noted that there's always the question whether they did form the district since the funding is not there. There was a recommendation to form a board for this district with terms mandated by library law. I would include in my recommendation that we include that specifically with this.

Jacqueline Murphy, attorney for the library noted that library law contemplates the formation and an IGA within 90 days of the formation. Within that 90 days the funding is to be addressed.

After some discussion on whether all three questions should again be on the ballot, Atty. Murphy said the most reasonable and efficient manner is to put just the funding question on the ballot. She further noted that there are ways to word the ballot question that would give them the history of the previous vote. It is a complicated question but we

need to make it clear that it will not tax the citizens anymore than they already are, and library records show that about 50% of the card users are in the county.

Library Director Wright said they have talked with campaign committee and they felt through their discussions it would make it a much clearer question for the voters, and better strategy.

Administrator White pointed out that even if this Board approves the resolution, if the county doesn't also approve it, the Town's approval becomes null and void. The library is having a hard time without the funding. If it goes to election and funding fails, how does it survive until 2012 on the funding it currently has?

Trustee Patrick moved to approve Resolution 10-08 with the added language to Section 2. "That the Town will continue to support the library as it has in past by appropriating and remitting to the District, the revenues from the Library Mill Levy and to the extent annually allocated by the BOT, a share of the 1% Sales Tax until the earlier of 2012 or the year following the passage of the Mill Levy Question. Second by Trustee Buckingham.

Mayor Patterson opened the public meeting. There being no public comment, the matter was brought back to the Board.

There was no further discussion. All members voted YES.

PUBLIC HEARING – ENERGY CODE

Administrator White introduced this agenda item concerning House Bill 1146 which was passed by lawmakers to improve the energy efficiency of Colorado's new buildings, and which calls for all jurisdictions that have a commercial or residential building code to also adopt a minimum energy code standard of 2003 IECC (International Energy Conservation Code) by July 1, 2008. Administrator White recommended passage of the 2006 IIEC.

Mayor Patterson opened the public meeting. There being no public comment, the matter was brought back to the Board.

There was some discussion whether this law applies to new construction only, or to existing buildings.

Mayor Pro-Tem Gregg noted that he was surprised to see the exclusion of single family dwellings. He would like to see what the mandates are, and what the penalties are for non compliance.

Trustee Buckingham moved to table this item until the next available meeting. Second by Mayor Pro-Tem Gregg. All members voted YES.

LEWIS FARMS ANNEXATION

Planning Director Anderson introduced this item noting that the Town purchased this 65 acre property surrounding the Town's wastewater facility. Town legal staff has drafted the proposed resolution and ordinance for this abbreviated annexation of a municipal property into the municipal boundaries of Berthoud.

Trustee Buckingham moved to approve Resolution 11-08 and the Findings of Fact regarding the annexation of the Lewis Farms Annexation. Second by Trustee Shepard. All members voted YES.

Trustee Buckingham moved to approve Ordinance 1091 annexing the Lewis Farms Property into the Town of Berthoud. Second by Mayor Pro-Tem Gregg. All members voted YES.

CONTINUATION OF PUBLIC HEARING – PARSONS 4th ANNEXATION
REZONING AND AMENDED OVERALL DEVELOPMENT PLAN

Planner Anderson reintroduced this agenda item which was originally presented on June 24th. At the Board's direction, staff has met with property owners to the south and has had a phone conversation with the owners to the north. This property is located at the east terminus of Bunyan Avenue and the west shore of Bacon Lake. In 2001 the applicant annexed the surrounding property and an ODP was approved for residential. The applicant is now requesting to bring the center piece into town, and amend the ODP to allow for commercial on Parcel 1, RV and Boat storage on Parcel 2 as a temporary use, and leave Parcel 3 as undeclared. Planner Anderson provided verbiage from the temporary use agreement from the Colorado Tractor PUD for the temporary use.

Jim Parsons, owner and developer of the property addressed the Board noting that most of this was reviewed at the last meeting. He decided to pursue something different when he saw the preferred land use plan, and he felt this plan made more sense for him and for the town. His Intent is to utilize his property in a way that will help him until growth in the town makes a different use, such as residential, better for the town. He decided to go ahead and adapt what the Planning and Zoning Commission recommended which was to allow the use for a period of 10 years from the date of approval, at which point this approval shall expire or may be extended at the discretion of the Board of Trustees.

Mr. Parsons noted that the people that expressed concern on the north and south side don't live there and their property is not annexed. Most of my property is annexed. I think this would be a good thing to start with. He handed out aerial photos of 2 different nearby facilities that have the same type of developments around them that you see here.

The Board discussed different options on how to address the temporary use; leave parcel 2 as undeclared and then allow this as a temporary use or allowing the use with a variance.

Attorney Fickel noted the agreement with Colorado Tractor PUD, stating it would be better to do it in a similar way so that in 10 years it could be extended if it makes sense.

Mayor Patterson opened the public hearing.

James Nordhougen felt the RV and boat storage was inconsistent with the comp plan. The 10 year time period makes it sound like the Board doesn't think the town is going to have anything happen for the next 10 years. This plan looks only at one person's financial needs instead of the good of the town and would affect the value of his property.

Steve Hanson, representing Anna Mary Weber who has property to the north agreed that the RV and boat storage was inconsistent with the comp plan and quoted several places in the comp plan to support his opinion. Since the original ODP was adopted, the Town adopted a new land use plan that shows high intensity residential and commercial for this area. While they do not oppose the commercial area, they do oppose the plans for Parcel 2.

Martha Loachamin, Todd Gabriel, Roseanne Boudreau, Kay Guide, and Jackie Herpel, all of whom either own or are marketing properties in Peakview Meadows subdivision expressed concerns about the effect the RV and boat storage aspect of the plan would have on the property values and marketability of the homes and lots there.

The public hearing was closed.

There was significant discussion among Board members and the consistent theme among the discussion was that although they supported the annexation of the property, and the commercial use on Parcel 1, they could not support the RV and boat storage aspect of the plan since approval of the RV storage could preclude near term development on surrounding properties.

Trustee Hindman suggested that since this has been published and notifications have gone out, it might make sense to take a recess and see if the applicant wants to continue to go forward.

After a brief recess, Mr. Parsons agreed to go ahead with the annexation, and is requesting PUD zoning with C-1 and C-2 uses on Parcel 1, and undeclared uses on Parcels 2 and 3.

Trustee Buckingham moved to approve Findings of Fact Resolution No. 12-08 for the Parsons 4th Annexation. Second by Trustee Patrick. All members voted YES.

Trustee Buckingham moved to approve Ordinance No. 1092 for the Annexation and Rezoning to T-Transitional, for the Parsons 4th application, finding that the request is consistent with the annexation criteria of the Colorado Revised Statutes and Town of Berthoud's criteria for annexation as identified in the Staff Report. Second by Trustee Shepard. All members voted YES.

Trustee Buckingham moved to approve Ordinance No. 1093, rezoning Parson's 4th Annexation from T (Transitional) to PUD (Planned Unit Development), with Parcel 1

being declared for uses consistent with C-1 and C-2, and parcels 2 and 3 being declared as undesignated uses. Second by Patrick. All members voted YES.

Mayor Patterson informed the Board and the audience that Planning Director Anderson will be leaving to take a job with the City of Loveland, and thanked him for his service to the Town.

COMMERCIAL HISTORIC DISTRICT

Historic Preservation Commission Chairman Sue Brungardt addressed the Board and explained that the Commission is seeking approval of a resolution supporting of a commercial historic district.

A presentation showing the historic area of old town Fort Collins was followed by a presentation and a streetscape slide tour of the area they are intending to designate in the historic district.

After significant discussion, the Board expressed its concerns that out of 35 property owners, only 18 of them were in support of forming the district. There were also concerns expressed that the procedures outlined in Ordinance 920 were not followed. It was decided that another ordinance should be adopted and the procedures followed as written. With that concession, Trustee Hindman moved to adopt Resolution 13-08 with the following changes; that the typo be corrected in paragraph 7, that the word support be changed to supporting in paragraph 10, and that in Section 1.0, work in creating be changed to work to create. Second by Trustee Buckingham. All members voted YES.

Mayor Pro-Tem Gregg noted that in light of the fact that this will be going through the correct procedure, and that the property owners will be notified and given 30 days to appeal, there will likely be a receptive audience.

RV, BOAT AND TRAILER PARKING

Chief Johnson asked that the Board make a final determination on the ordinance.

Trustee Hindman suggested that we have the police department enforce the ordinance on a complaint basis only and put this on a study session.

Mayor Patterson asked for public comment.

Dan Riffle – 739 Sage Place – I have spoken to the past board and to staff at length and to owners and non owners of RV's. There is confusion of the intent of the code, and why we need the ordinance to begin with. How can we leverage this to be something positive. He felt there were 4 things to be addressed: storage, parking, permitting, and community outreach.

Responsible owners know you shouldn't be living in it and having it sit in the front yard. The proposed ordinance goes beyond and penalizes people who want to be responsible.

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It gives the impression that Berthoud doesn't welcome vacationers and RVers and boaters. We should be promoting Carter Lake. Also, there aren't enough areas in the area for storage of RV's, and with what happened tonight, there will be even less. It's difficult to find storage areas.

If owners were able to designate areas on their properties as RV parking spots, it would be a good selling point. As it stands now, people can park anywhere on the property as long as it is not in the front yard.

Permitting – vehicles should be permitted, should pay a fee and register the vehicle with the Town.

Regardless of changes to the law, there should be public outreach program.

The Board determined that they should table enforcement of the majority of the ordinance, but give the green light for enforcement for public safety, and for flagrant violations.

Valerie Pherson – 1032 6th St. Ct. – I'm concerned about being able to have my RV on my property.

Ralph Nelson – we've had trailers and RV's over the years. Continue the enforcement.

It was decided to bring this matter to a study session July 29th.

Patrick asked for minutes from meetings where the Board discussed this item.

Meeting adjourned at 11:45 p.m.

T.P. Patterson, Mayor

Sue Bowles, Planning Technician