

TOWN OF BERTHOUD  
BOARD OF TRUSTEES  
REGULAR MEETING  
SEPTEMBER 9, 2008  
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The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, September 9, 2008, in the Board Room at Town Hall. Mayor Patterson called the meeting to order at 7:00 p.m.

MEMBERS PRESENT: Mayor Tom Patterson  
Mayor Pro-Tem David Gregg  
Trustee Michael Patrick  
Trustee Glen Buckingham  
Trustee John Bauer  
Trustee Jeff Hindman  
Trustee Dick Shepard

STAFF PRESENT: Town Administrator Jim White  
Town Engineer Stephanie Brothers  
Town Clerk Mary Cowdin  
Interim Planner Tim Katers  
Chief of Police Glen Johnson  
Public Works Director Tony Huerta  
Deputy Town Clerk Charlene Reed

#### **PLEDGE OF ALLEGIANCE**

Mayor Patterson led the pledge of allegiance.

#### **CITIZEN PARTICIPATION**

There were no items presented from the audience.

#### **REPORTS**

Administrator White reported that the Coffee with Jim will be held on Saturday, September 13, 2008 at Grandpa's. He noted that a meeting was held this afternoon with the public related to issues on Mountain Avenue. Public Works Director Huerta explained that the concerns included the dust problem and the condition of the site on the weekends. We have asked NCC to spray the roadways with water on weekends. Business owners also expressed concern about the damage to the sidewalks, which will be repaired as part of the project.

Administrator White noted the Town has been part of a larger group including Larimer County and Fort Collins regarding the Northern Colorado Energy Star Marketing Team. He will provide more information for the Board at future meetings.

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Trustee Shepard noted he attended the Library Board on August 28, 2008, and they are very excited to be establishing themselves as the governing board for the Library. Beginning October 11, 2008, volunteers will be delivering flyers to the residents encouraging them to vote in favor of the Library District.

Trustee Hindman reported on the Berthoud Economic Resource Team meeting held last Monday. He also noted he would like to see a policy developed regarding how the Town responds to letters addressed to the Board. He suggested there should be a standard response from the Board, and felt this is an opportunity to educate the public about the issues that come up. The Board received a letter from Todd Gabriel, and he asked if a response has been sent. Administrator White noted he has addressed the issues that were presented from the letter. Board members asked to be copied on the responses when the letters are addressed to the Board. Administrator White concurred.

Trustee Buckingham noted the Berthoud Economic Resource Team plans to schedule a retreat for 10:00 a.m. on Saturday, September 27, 2008 at the Bed and Breakfast and he asked which Trustees will attend. Trustees Bauer, Buckingham, and Hindman plan to attend.

Trustee Buckingham announced that a special meeting of the Historic Preservation Commission will be held on Wednesday, September 10, 2008 in the Board Room at Town Hall to discuss the formation of a commercial historic district for Berthoud.

Trustee Bauer noted that the Berthoud Economic Resource Team has asked for an up-to-date zoning map. Planner Katers noted he will work with planning staff to get this done.

Trustee Hindman noted that the Berthoud Economic Resource Team has asked that the Board consider creating an economic development position. He asked staff to identify a source of funds to pay for this position. Administrator White noted that staff is already looking for a source to fund this position, but that the money may not be available for this year. Trustee Buckingham noted that the committee is doing research to decide what this position might look like and they will be contacting other communities to determine what this position is doing in other communities. The intent is to come up with a plan for the position, which will be presented to the Town Administrator for review. Trustee Hindman suggested that before defining the position, we should identify funding for the position. He noted the Board's highest priority for the year is economic development, and we need to find funds that can be used for this program for the rest of the year. He did not feel it is realistic to say that no funds are available. There has to be money that can be used.

Mayor Pro-Tem Gregg noted that the second part of the request is to identify funds in next year's budget for economic development. He asked if there are funds available to hire an economic development position before year end, and then budget for the position

for 2009. Trustee Buckingham noted that will be part of the budget process. Trustee Patrick noted that the Town did not build in a slush fund for extra projects and expenses for 2008. To free up money for this position, we will have to take the funds from somewhere else. He pointed out that in the budget for the upcoming year, there will be competing interests as well. This Board has stated that we do not want to increase the existing municipal fee. With inflation adding to the cost of goods and services, to keep that fee at the same level, we will have to reduce the goods and services we provide. He noted we get our biggest bang for the buck when we secure grants and our staff has been successful in doing that. He felt it is important to determine where we get our most effective use of our payroll dollars.

Trustee Buckingham suggested that the Berthoud Economic Development Team meet with the Board for a study session to discuss ideas.

#### **CONSENT AGENDA**

The consent agenda consisted of the minutes of the special meeting of August 19, 2008, and the bills allowed for August 2008.

**Trustee Buckingham moved to approve the bills allowed for August 2008. Second by Trustee Shepard. The motion passed unanimously.**

**Mayor Pro-Tem Gregg moved to approve the minutes of the special meeting of August 19, 2008. Second by Trustee Bauer. Trustees Hindman and Buckingham abstained and all other members voted for approval.**

#### **PROCLAMATION – CONSTITUTION WEEK**

Mayor Patterson read the proclamation declaring September 17 through September 23, 2008 as Constitution Week for the Town of Berthoud.

#### **AWARD BID – LAKE AVENUE PAVING**

Staff Engineer Brothers requested that the Board award the bid for the Lake Avenue Project to Don Kehn Construction. She explained that the Town received five bids. Don Kehn is the low bidder, and staff believes they are well qualified for the project. References will be checked by staff prior to work beginning.

**Trustee Buckingham moved to approve Don Kehn Constructor as the contractor for the Lake Avenue Pavement Improvement Project. Second by Trustee Patrick. The motion passed unanimously.**

### **E911 APPOINTMENT**

Town Clerk Cowdin explained that on December 31, 2008 the term on the Larimer Emergency Telephone Authority (LETA) Board held by John Baudek, will expire. Estes Park Mayor Baudek is willing to continue to serve on the LETA Board for a second two-year term commencing January 1, 2009. He is asking that he be reappointed to the Board.

**Trustee Shepard moved to nominate John Baudek to the LETA board for a two-year term commencing January 1, 2009. Second by Trustee Bauer. The motion passed unanimously.**

### **AIMS COMMUNITY COLLEGE**

Administrator White introduced Marsi Liddell, AIMS President. She introduced her staff, who presented information regarding plans for the proposed future Aims Community College campus which is planned for I-25 and Weld County Road 44.

Board members welcomed Aims Community College to Berthoud and noted this is an exciting opportunity for the Town.

### **APPEAL DECISION OF ZONING BOARD OF ADJUSTMENTS RE: SIGN VARIANCE**

Interim Planner Katers noted that Mr. Larry Bebo is requesting a variance to Section 30-13-309 of the Berthoud Development Code to allow an electronic sign with changeable copy. On August 14, 2008 the Berthoud Planning Commission voted in a tie against the request for a sign variance. He explained that the function of the Board is to serve as the board of appeals and asked the Board to consider this item.

T. J. Schlosser presented information regarding the features of the signs and noted that most of the cities in the area are allowing them to be used. He noted these signs are similar to scoreboards, bank time and temperature signs and road signs, which are allowed. He suggested that the signs be allowed with a ten second interval.

Planner Katers presented review criteria for the Board to determine whether the variance should be granted. Mayor Patterson, Mayor Pro-Tem Gregg, and Trustees Bauer, Buckingham, and Shepard felt the request met the criteria. Trustees Patrick and Hindman felt the sign code should be modified, and that the request did not meet the criteria.

**Trustee Patrick moved to deny the variance and instruct staff to provide an ordinance with dispatch to allow the applicant's sign to be installed at L & M for a trial so that the Town can evaluate the technology and consider later modification of**

**the sign code. Second by Trustee Hindman. Trustees Hindman and Patrick voted YES. Mayor Patterson, Mayor Pro-Tem Gregg and Trustees Bauer, Shepard and Buckingham voted NO.**

**Trustee Bauer moved to approve the L & M Sign Variance located at 735 E. Highway 56 with the following finding of fact and conditions:**

- 1) The variance meets the criteria for variances as identified in Section 31-3-110 of the Berthoud Development Code.**
- 2) Sign operation is limited to static messages only, and shall not have movement or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, and shall change no more often than every fifteen seconds and the applicant shall not make any changes to the location of the signs, and**
- 3) The sign is in compliance with the Town of Berthoud “Dark Sky” ordinance.**

**Second by Trustee Shepard. Mayor Patterson, Mayor Pro-Tem Gregg and Trustees Bauer, Shepard and Buckingham voted YES. Trustees Patrick and Hindman voted NO.**

**SET PUBLIC HEARING – ORDINANCE  
RE: NEIGHBORHOOD ELECTRIC VEHICLES**

Chief of Police Johnson presented a proposed ordinance to allow neighborhood electric vehicles and regulating the use of these vehicles. Colorado law allows Towns to authorize the use of “Neighborhood Electric Vehicles” within the Town limits. Use of these vehicles is a safe, economical, clean (low pollution) method of transportation for short distances using roadways within the Town. Use of these types of vehicles also reduces the use of fossil fuels. The use of these types of vehicles is projected to increase rapidly in the near future due to the high price of fossil fuels and community awareness of clean environmental issues.

Chief Johnson noted that the Board Police Department would suggest to the Board the adoption of an ordinance allowing the use of Neighborhood Electric Vehicles as allowed by the Revised Statutes and the Model Traffic Code. He asked that the Board set a public hearing to consider this ordinance.

Chief Johnson noted requesting emergency ordinance in support of citizens that have a vehicle that would qualify as vehicle.

Board members requested clarification of requirements for insurance for these vehicles.

Trustee Buckingham moved to set a public hearing on September 23, 2008 to allow neighborhood electric vehicles to be operated in the Town of Berthoud. Second by Trustee Bauer. The motion passed unanimously.

The Board recessed at 9:40 p.m., and reconvened at 9:50 p.m.

**RESOLUTION SUPPORTING DOLA APPLICATION  
REGARDING: EMBRACE COLORADO**

Administrator White noted Embrace Colorado is a newly formed nonpartisan nonprofit in the northern Colorado region. Its mission is to “facilitate a respectful and constructive conversation among the citizens of Northern Colorado to create a region rich in opportunity, diversity, and quality of life for all our citizens based on our common heritage.” He introduced John Doggett, who provided information regarding the program. He asked the Board to support a grant application to the Department of Local Affairs. The Town of Berthoud is being asked to contribute \$615.

Trustee Buckingham moved to approve the Town of Berthoud’s support for the visioning process in Northern Colorado through the nonpartisan, nonprofit organization, Embrace Colorado, with the financial support and commentary expressed in the Town of Berthoud’s formal Resolution 18-08. Second by Mayor Pro-Tem Gregg. The motion passed with one negative vote by Trustee Hindman.

**MOUNTAIN AVENUE SIDEWALKS**

Public Works Director Huerta explained that the Mountain Avenue project is currently progressing on schedule. Within the next week, the Contractor will begin curb and gutter work on Mountain Avenue east of the railroad tracks. Business owners are being encouraged to replace the sidewalks adjacent to their businesses as part of this project, at a cost of \$39.10 per square yard. To date, only a handful of business owners have expressed an interest, and it is staff’s opinion that replacing only some sections of sidewalk will result in an “unfinished” appearance for the Downtown Business Area. He noted we are now at a point where we need to make some decisions concerning the sidewalks. He provided a summary of the cost involved in replacing these sidewalks and he distributed a revised spreadsheet that reflects the cost to the business owners if the Town pays for half of the cost to replace the sidewalks. In the Town Code, the cost to maintain sidewalks is the responsibility of adjacent property owners, and the Board can require adjacent property owners to replace or repair sidewalks. The Town of Berthoud is spending a lot of money to improve the downtown area and Public Works Director Huerta felt it would be short sighted to continue on with this improvement without completing the sidewalk renovation.

**Trustee Buckingham left at 10:10 p.m.**

Public Works Director Huerta asked the Board to consider the following options:

- 1) The Town would adhere to the Municipal Code, Chapter 15, requiring that property owners replace their sidewalks. He noted this is the least popular option since the businesses have been negatively impacted by this project.
- 2) The Town would agree to pay for 50% of the cost of the sidewalks with the cost incorporated into the Mountain Avenue project. He noted the concern is that our funds are limited and this could potentially affect when we can continue the project.
- 3) The Town would pay for 50% of the cost of the sidewalk replacement by increasing the municipal fee by \$1.01 per household for one year to cover the cost.
- 4) The Town would encourage businesses to work with local banks and explore loans to fund the improvements. Administrator White has discussed this with the bank presidents of all the local banks and has had some positive response.

Public Works Director Huerta recommended option #3, which would allow the Town to pay 50% of the sidewalk improvements and recover the costs as part of the municipal fee.

Following discussion, the majority of the trustees felt that the businesses have been inconvenienced by this project, and that the project has had a negative financial impact. Due to this negative impact, several of the trustees did not think it would be appropriate to require business owners to have to make these repairs. They asked staff to look for the funds to pay for the entire sidewalk replacement. There was discussion regarding possible sources of funds, and staff was asked to review the possibility of using the 1% Sales Tax, or determine other possible funds that can be used.

Former Mayor Milan Karspeck was present, and when asked his opinion, he suggested that the Town front the money and then use tax dollars from the businesses to repay the loans. It was noted that many of the businesses on the list do not generate sales tax dollars, but the Board felt looking for creative ways to solve this problem should allow it to be a win-win situation for everyone.

Scott Banzhaf of 310 Mountain Avenue suggested this is an opportunity for the Board to do something for the business owners to reinvest in the downtown area while it is still alive and businesses are occupied. He felt that a uniform appearance to the area is important and some of the businesses need a peace offering. There has been a negative impact on many of the businesses due to the construction, with lay offs and significant

decreases in sales. He provided examples of economic issues that are being faced by the businesses. He suggested the Town get creative and find a way to pay for the sidewalks, which are located on a state highway right-of-way. He felt this would be a good economic development project. He suggested that the Town amend our bonding for phase two and increase the amount we request at that time.

Mayor Pro-Tem Gregg moved to approve staff's recommendation to address the sidewalk issue on the Mountain Avenue Phase 1 Improvement Project at 50% or more pending further discussion with staff. Second by Trustee Shepard. The motion passed unanimously.

### **VOLUNTEER BOARD & COMMISSION APPOINTMENTS**

Administrator White summarized the openings available on our boards and commissions, as follows:

Planning and Zoning – 3 openings, 3 letters of interest received  
Historic Preservation – 3 openings, 3 letters of interest received  
Parks and Open Space – 4 openings, 1 letter of interest received  
Tree – 3 openings, no letters received  
Transportation – 1 opening, no letters received  
Utility – 5 openings, 3 letters of interest received

He explained that we have advertised in our paper of record and on the monthly utility bills. Both local newspapers have written about our search for volunteers. At this time, the Historic Preservation Commission interview committee has completed their interview of the candidates. He explained that staff is recommending that the current terms for Jim Doyle and David Skiles through September 30 to allow time for interviews to be completed by the Planning and Zoning Commission.

Mayor Pro-Tem Gregg moved to appoint Marian Maggi, Herb Meeker and Sue Seawalt to the Historic Preservation Commission for three-year terms to expire August 31, 2011 and to appoint Michael Patrick as the Town's representative and Town Administrator White as an alternate to the CML Policy Committee. He also moved to extend the appointments for David Skiles and Jim Doyle until September 30, 2008. Second by Trustee Shepard. Trustee Hindman moved to amend the motion to appoint David Skiles and Jim Doyle to four-year terms ending August 31, 2012. Mayor Pro-Tem Gregg agreed and there was a second by Trustee Shepard. The motion passed unanimously.

Trustee Patrick moved to appoint Milan Karspeck, Don Ashcraft and Michael Cook to the Utility Advisory Board. Second by Mayor Patterson. The motion passed unanimously.

**EXECUTIVE SESSION**

Mayor Patterson asked former Mayor Milan Karspeck to join the Board for an Executive Session for negotiations.

**Trustee Patrick moved to adjourn to an Executive Session for negotiations. Second by Trustee Shepard. The motion passed unanimously.**

The Board adjourned to an Executive Session at 11:20 p.m., reconvened at 12:10 p.m. and immediately adjourned.

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Mayor Tom Patterson

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Deputy Town Clerk Charlene Reed