

The Board of Trustees of the Town of Berthoud met for a regularly scheduled meeting on April 28, 2009.

Mayor Patterson called the meeting to order at 7:00 p.m.

Board Members Present: Mayor Tom Patterson
Mayor Pro-Tem David Gregg
Trustee John Bauer
Trustee Glen Buckingham (7:50 p.m.)
Trustee Jeff Hindman (7:15 p.m.)
Trustee Michael Patrick
Trustee Dick Shepard

Staff Members Present: Town Administrator Jim White
Public Works Director Tony Huerta
Town Planner Tim Katers
Town Attorney Bruce Fickel
Deputy Town Clerk Linda Higuera

Pledge of Allegiance

Mayor Patterson led the Pledge of Allegiance.

Citizen Participation

Dorian Ryan-Tacy, Berthoud Town Forum, complimented Pat Karspeck for her excellent organization of volunteers for the Arbor Day planting on Mountain Avenue. She also complimented John Youngblut, Tom Vaughan, Kelly Hines-Keller and Jim White for installing the Farm Heritage exhibit at DIA. Ms. Ryan-Tacy stated that the Berthoud Town Forum is up and running. The main goal is to encourage citizens to attend Town Board meetings.

Reports

Trustee Michael Patrick reported on the meeting with Johnstown. Trustee Patrick stated it was good beginning.

Trustee Patrick explained the spreadsheet distributed at the meeting. This spreadsheet shows the impact to the ending fund balance with five, ten and twenty permits. Trustee Patrick would like to see a budget review scheduled for a study session in the near future to assess the impact of the Town's economic situation on the 2009 budget.

Trustee Bauer stated the current focus on grants would help ease the pressure on the budget. He asked if the current grant that BERT located was in process. Administrator White stated that there have been two meetings but the grant is not complete.

Trustee Hindman urged that the grant be completed and submitted. This could result in receiving \$50,000 for economic development.

Mayor Patterson, Trustee Hindman, Trustee Bauer, Mayor Pro-tem Gregg and Trustee Patrick all volunteered to assist in completing this grant.

Trustee Patrick discussed the items from the list of deliverables from BERT. Some of these items are not critical to day to day business (such as Master Drainage Plan and sizing); however, they are important when trying to attract new businesses.

Trustee Bauer requested review of any other fund balances that are showing decreased revenues.

Town Administrator White announced that the Town received a \$1,500 grant from the Colorado Tree Coalition for the purchase of trees used in the Mountain Avenue planting.

Administrator White reminded everyone of the Mountain Avenue dedication on Saturday, May 2, 2009. Administrator White asked for official approval for the expenditure of funds for the Business Owner Breakfast.

Administrator White stated that he had received a letter of complaint from several business owners on Versaw Court regarding a neighboring business. The complaint and action taken by Town staff will be forwarded to the Board.

Trustee Bauer asked if one of the 15 minute parking signs was removed. There are currently two signs. Due to the placement of the signs the area is not clearly marked. Trustee Hindman requested that staff view the area and re-install the sign if necessary.

Consent Agenda

Motion to approve items 6a and 6b from the Consent Agenda by Trustee Shepard, seconded by Trustee Bauer. Motion passed unanimously. Motion seconded by Trustee Shepard. Motion passed unanimously.

Motion to approve item 6c from the Consent Agenda by Trustee Bauer, seconded by Trustee Shepard. Motion passed with five yes votes and abstention by Trustee Patrick.

Swearing in of Officer Matt Clark

Mayor Patterson administered the oath of office to Code Enforcement Officer Matt Clark.

Proclamation

Mayor Patterson read the Silver Star Banner Day 2009 Proclamation into the record.

Roundabout Enhancement Contract

Public Works Director Tony Huerta presented this item. This is a \$134,000 grant from CDOT. Motion to authorize the Town Administrator to execute the contract by Trustee Gregg. Motion seconded by Trustee Shepard. Trustee Bauer asked if the recommendations from the Main Street committee were being considered. Public Works Director Huerta stated those recommendations were being incorporated as allowed by CDOT. Motion passed unanimously.

Electric Municipalization

Town Administrator White introduced this item. The purpose of tonight's presentation is to provide information from Xcel and Poudre Valley REA regarding the possibility of creating a municipal electric service on new subdivisions.

Todd Anderson, Xcel Energy Community and Local Affairs Manager, stated that he did not have a set presentation but was available to answer any questions the Board may have. He stated that Xcel has served Berthoud for a long time. He stated that Xcel's position in most cases was not to support municipalization. However, without a franchise there would be nothing Xcel could do regarding new customers (subdivisions).

Trustee Shepard asked where the funding comes from if a franchise agreement was signed. Mr. Anderson stated that a franchise fee is added to all customers in Berthoud. This franchise fee (3%) is then forwarded to the Town.

Mayor Patterson asked if "undergrounding" is included in that 3%. Mr. Anderson stated that undergrounding is a separate fund and consists of 1% of the income generated by the community.

Trustee Patrick stated that in the course of the planning being done for economic development the providers of utilities are being asked to provide master planning information, i.e. location of utilities within our Town boundaries. Mr. Anderson stated that he would be able to provide that information.

Trustee Shepard asked for a brief overview of the advantages of a franchise agreement. Mr. Anderson stated that Xcel views a franchise agreement as their agreement with the Town on how Xcel uses the Town's right of way. The franchise agreement also

contains the 1% funding for undergrounding utilities. Attorney Fickel states it also covers early termination of the agreement, accounting processes, enforcement processes, etc. The agreement also covers relocation of utilities at no cost to the Town.

Mayor Pro-Tem Gregg asked for the drawbacks of creating a hybrid system. Mr. Anderson stated that the economies of scale and the maintenance and repair time and costs would be drawbacks for a town the size of Berthoud to assume.

Trustee Hindman asked if the services (tree trimming/maintenance) would be the same with or without a franchise. Mr. Anderson stated that the services are mandated and would remain the same. Trustee Hindman asked what the minimum franchise period is for Xcel. Mr. Anderson stated that the minimum is twenty years. This is standard throughout all the franchise agreements. Trustee Hindman asked if Xcel would consider working with the neighborhood solar farm feeding the subdivision and also feeding into the grid. This issue would need to be explored with the PUC before Xcel would be able to offer an opinion. Trustee Hindman asked who determined the boundaries for each utility. Mr. Anderson stated that the PUC determines the boundaries.

Trustee Patrick discussed which items in the franchise agreement might be negotiable and which items were not negotiable.

Trustee Shepard asked if a decision was made between the PUC and Xcel regarding recouping costs of building plants. To Mr. Anderson's knowledge no decision was made.

Administrator White introduced Patrick Plank, Key Accounts Representative, Poudre Valley REA. Mr. Plank discussed the differences between Xcel and Poudre Valley REA. The key difference is customers of PVREA are the members who vote on the Board of Directors.

Trustee Bauer asked what the minimum time frame is for a PVREA franchise. Mr. Plank stated that their standard time frame is twenty-five years. The length of time is determined by the amount of investment being made by the company.

Mr. Plank stated that PVREA has no problem partnering with an area served by a solar farm within the PUC rules. He also stated that PVREA is in initial discussions with Berthoud High School regarding a solar project.

Trustee Patrick asked about rebate programs offered by PVREA. Mr. Plank stated that there are several rebates on appliances available. The solar rebates are offered in conjunction with the Governor's Office funding which requires matching funds. These grants are still available but are limited.

Trustee Hindman asked what PVREA's position was regarding municipalization on new subdivisions. Mr. Plank stated that the company would not support any agreement that

would result in the loss of customers. Mr. Plank also stated that lack of a franchise would not change the level of service to the community.

Trustee Gregg asked “what are the disadvantages of municipalization.” Mr. Plank stated that the main areas of concern would be long term commitment, financial investment, and locating power sources.

Trustee Shepard asked what fee (percentage) would be added to the customer bill for franchising. Mr. Plank stated that 3% is the franchise fee. Also PVREA does not differentiate between customers covered by a franchise agreement and those that are not in offering energy rebates.

Trustee Buckingham asked about the details of a business model for municipalization. Mr. Plank is not aware of any other communities involved that have created municipalization models. Mr. Plank stated that the City of Loveland and City of Fort Collins both would have business models that could be reviewed.

Attorney Fickel asked if the residential rates between the two companies are comparable. Mr. Plank stated that the rates are very close.

John Allum discussed the map that delineated which areas were covered by each of the vendors. He also stated that renewable energy storage is the key to making it viable for general use.

Grant Proposal

Police Chief Glenn Johnson introduced this item. The grant is for the purpose of hiring two additional police officers and one additional clerical position. The grant would fund these positions and all equipment for a period of two years. There is no requirement that these positions would continue when the grant funding ended. The Board by consensus expressed support for the grant.

Habitat for Humanity Fee Waiver Request

Mayor Patterson recused himself from the item.

Town Planner Katers presented the request from Berthoud Habitat for Humanity to waive all building permit fees for construction of the next Habitat home. Total cost of the fees to be waived is \$25,496.12.

Trustee Patrick gave the history of previous waivers. The concerns expressed in the past were favoring one charity over another and that the fee waiver benefited an individual and not a charity. He also stated that enterprise funds (water, wastewater and raw water) cannot be waived. Those fees would have to be transferred from the General Fund.

Town Attorney Fickel explained the legal restrictions on waiver of enterprise fees. The enterprise funds must be kept whole.

Rick Haskins, President of the Board, Habitat for Humanity, explained the request for waiver of fees would make the home more affordable and would allow the project to start in the near future.

Trustee Hindman asked if there are any deed restrictions to ensure the home remains affordable. Mr. Haskins stated that the homeowner carries a silent mortgage for the difference between actual cost and actual value. The silent mortgage reduces by 5% per year. This is established by an actual contract.

Trustee Patrick stated that the General Fund is currently under scrutiny with the drop in revenues.

Trustee Hindman asked is postponing the fees to the issuance of the Certificate of Occupancy instead of a waiver would allow the project to begin immediately. Mr. Haskins stated that it would affect the speed of the project. Trustee Hindman stated that he would need to see the legal opinion on transferring money from the General Fund to the Enterprise Funds.

Mayor Pro-Tem Gregg asked for clarification on transfer of funds for water and wastewater. Attorney Fickel stated the transfer must be made.

Trustee Shepard stated that with the current budget condition he could not support a fee waiver that would transfer funds from the General Fund. He did support postponing those fees until the Certificate of Occupancy.

Trustee Patrick expressed support for the mission of Habitat. He stated that the current financial situation with the Town budget precludes funding the waivers for water and wastewater taps. He supports tabling the request until after the budget review.

Trustee Bauer asked if some of the fees be waived now and delay decision on the remainder until after budget review.

Planner Katers stated the start up costs would be waived at present and delay payment of the enterprise fund costs until Certificate of Occupancy.

Motion by Trustee Buckingham to waive all fees listed on the document with the exception of the water and wastewater tap fees and to keep tap fees at the rate listed on the document. Motion seconded by Trustee Bauer. Motion passed unanimously.

Public Hearing Amend Ordinance 1104

Planner Katers explained this item. Ordinance 1104 created automatic fee waivers for building permits. However, this also reduced the small permits, i.e. fence, water heater replacement, and basement finish. Because these projects are small in nature, the Planning Department is recommending that Ordinance 1104 be amended to apply only to new residential construction, new commercial or industrial construction or home remodels that are valued at 50% of the current value of the residence.

Mayor Patterson opened the public hearing. There were no members of the public wishing to give testimony. The matter was brought back to the board.

Motion by Trustee Hindman to approve Ordinance 1105, seconded by Trustee Buckingham. Motion passed unanimously.

Approval of Master Street Plan

Planner Katers presented the Master Street Plan with written comments from John Sayer, Transportation Consultant. This document contains suggested updates the road impact fees.

John Sayer explained that the level of service comparisons for level of service C and D. The financial difference would equate to 2% at the I-25 area and 5% in the town center.

Motion to approve the Master Street Plan by Trustee Gregg, seconded by Trustee Bauer. Motion passed unanimously.

Set Public Hearing for Road Impact Fee

Motion to set the public hearing on Road Impact Fee for May 12, 2009 by Trustee Buckingham, seconded by Trustee Shepard. Motion approved unanimously.

The Board adjourned to Executive Session at 10:15 p.m. to discuss the Library IGA.

Mayor Tom Patterson

Linda Higuera
Deputy Town Clerk