

The Board of Trustees of the Town of Berthoud met for a regular meeting on Tuesday, February 24, 2009. Mayor Tom Patterson called the meeting to order at 7:00 p.m.

ROLL CALL

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

Staff members present: Town Administrator Jim White
Town Planner Tim Katers
Public Works Director Tony Huerta
Mainstreet Director Eric Boyd
Town Clerk Mary Cowdin
Town Attorney Bruce Fickel

Pledge of Allegiance

Mayor Patterson led the Pledge of Allegiance.

Citizen Participation

Joyce Jones presented a letter indicating interest in annexing her property into the Town of Berthoud. Town Planner Katers has met with Mrs. Jones and Town Administrator visited the property.

Becky Hemmann, BERT, handed out the report from Salazar and Associates. She also requested permission to move the BERT meetings from the Town Hall to the Guarantee Bank. Town Clerk Mary Cowdin stated that over the past several years there has been an attempt to move all Board and Commission meetings back to Town Hall in answer to citizen requests. Mayor Patterson asked why the request is being made. Becky stated that the BERT committee is a large committee and Town Hall has no tables to write on and no white board. Trustee Patrick asked if there was concern about not having access to the resources at Town Hall. She stated that the bank facility is better suited for their purposes. Trustee Hindman asked if the train depot Library and Community Center have been considered. Several Board members stated that there have been problems in the past with people being locked out of scheduled meetings. Trustee Patrick suggested that Town Hall has the capability to televise meetings which are of public interest. Town Clerk Cowdin responded that tables are available and could be set up if needed. Trustee

Patrick again stated that he would like to see the meetings televised to provide information to the general public. Trustee Hindman also supported televising the meetings and requested that the agendas be published a week in advance so that the public can participate. Meetings will continue to be held in Town Hall.

REPORTS

Town Administrator White introduced Keith Reester, Public Works Director for the City of Loveland. Mr. Reester is representing the American Public Works Association of Colorado. He presented the Public Works Project plaque from APWA to the Town of Berthoud for the Mountain Avenue Project. Projects are considered on innovation, transferability, collaboration and the ability to utilize resources. He also thanked Mayor Patterson for being the only elected official to attend the recent APWA meeting.

Mayor Patterson reported that he met with Stephanie Salazar and Jill Jamison Nichol, Colorado Real Estate Journal, for a tour of Berthoud.

Public Works Director Huerta reported that Mark Peterson from Larimer County contacted Berthoud to partner with Loveland, Larimer County and the Town of Berthoud on a CR 17 improvement project as part of the presidential stimulus package.

Director Huerta also stated the water report meeting scheduled for March 3, 2009 has been rescheduled to March 17, 2009.

Town Administrator White announced that February 25, 2009 is the Colorado Municipal League legislative meeting. Trustee Hindman and Administrator White will be attending.

Town Administrator White announced that Code Enforcement Officer Matt Clark has been hired effective March 2, 2009

Town Administrator White indicated that the Library District has requested a portion of the sales tax revenue. The Town has provided \$40,000 of the \$60,000 earmarked for 2009.

The Unity in the Community meeting in Longmont will be attended by Trustees Shepard and Bauer, Mayor Pro-Tem Gregg, Mayor Patterson, Administrator White and Lisa Underhill on Thursday on February 26, 2009

Town Administrator White noted that the Town received a \$109,414 grant to rehabilitate the police department façade. Museum Director Tom Vaughan worked on this grant.

The Tree Board submitted and received a \$1,500 grant to assist with our Arbor Day celebration. The Town of Berthoud has been a Tree City USA for the past 25 years.

Town Administrator White reported the gateway signage has been installed on Highway 287, both northbound and southbound. Administrator White distributed pictures of the sign and adjoining signs which are directional. The Streets and Parks and Recreation Departments collaborated with the installation.

Trustee Buckingham announced that the Historic Preservation Commission will meet Wednesday, February 25, 2009. He would also like to be replaced on as liaison. Trustee Buckingham will continue until a replacement can be appointed.

There will be a BERT sub-committee meeting on business attraction and retention on February 25, 2009 at 12:00 at the Bed and Breakfast. Trustee Hindman pointed out that there are numerous buildings in town that are more than shovel ready. He would like to see consideration of financial assistance to fill these storefronts. He encouraged everyone to attend.

Mayor Patterson asked if Stephanie Salazar was on contract for next month. Administrator White stated that this was on the agenda for executive session at the end of the meeting.

Mayor Pro-Tem Gregg reported on the Planning and Zoning Commission work on the IGA with the Town of Mead. Town Planner Katers presented a working map showing the surrounding communities boundaries and planning areas. The Planning Commission is working on a draft Growth Management Area (GMA) map with the Town of Mead. There is a property on the boundary that could go either way. The property owner has expressed his intent to remain in the Berthoud GMA. Trustee Gregg stated that is important to get the line adjusted and the property owner's wishes be considered. The Planning and Zoning Commission is questioning whether the Berthoud GMA should be expanded. Trustee Buckingham asked if the planners are considering the topography of the areas. Trustee Gregg also asked if any detail reports from BERT showing activities and projects were coming to the Board. Jim Birdsall has volunteered to scan the summary document and transmit electronically. This would allow it to be disseminated and posted on the website.

Trustee Bauer attended the North I-25 EIS meeting. The project is nearing the point of being finalized and forwarded to CDOT.

Trustee Patrick reported that the Utility Advisory Board (UAB) has been reconstructed and met last week. Former Mayor Milan Karspeck was elected chair of the board. The immediate focus is on raw water issues. Board meetings are scheduled once per month. Advisory Board members have asked for specific information from the Board of Trustees regarding scope, focus and direction. One of the current tasks is generating a description and inventory of our raw water at this point. Trustee Patrick has requested that the Town's historical water documents be scanned for preservation and availability as background for the Advisory Board and Town Board. The interview committee will be reviewing the two applications for appointment to the UAB. The UAB is also requesting clarification on the electric municipalization question.

Trustee Shepard stated that the UAB is very important and the Board of Trustees need to prioritize the items on the table for this Board. Trustee Shepard stated that he has a commitment on Wednesday nights that prevent his attending the Historic Preservation Committee.

Mayor Patterson attended the Welch Lateral Ditch Company meeting. This ditch is delivery only but is critically important. The Ditch Company has moved from third in line to twenty-third in line for water due to lack of adjudication. The Town has 33 shares out of a total of 250 at \$35.00 per year per share. This water is combined with the school district shares and run to the retention pond. It is then used for non-potable watering at Bein Park.

CONSENT AGENDA

Motion made by Trustee Buckingham approve the Consent Agenda consisting of minutes from the February 10th meeting and bills allowed list. Seconded by Trustee Shepard. Motion passed unanimously.

PROCLAMATION – CAREER AND TECHNICAL EDUCATION MONTH

Mayor Patterson read the Career and Technical Education Proclamation into the record.

STREETSCAPE ADDITIONAL ELEMENTS

Mainstreet Director Eric Boyd presented the proposed planter, bench and bike rack element sketches. He is requesting that at least one of the elements be purchased and installed in early March on at least one corner. After examining a number of bench designs, the recommendation is for a plastic coated metal mesh design. Director Boyd recommended that we purchase locally if at all possible. There are two sizes on the planter design. The idea is for the planters to blend so that the plantings would be the attraction. The recommendation is for unique designs for the bicycle racks to reflect the individual businesses. There is no grant funding for the benches, planters and bike racks. At least two individuals have volunteered to purchase items to be placed. This would generate more interest in the project. Trustee Shepard asked how the welded trash cans would be emptied. It was recommended that maintenance issues be discussed with the Parks and Recreation department.

Trustee Buckingham asked if the maintenance would be part of the Main Street Program responsibility. Director Boyd reported that once the items are installed the Town would be responsible for maintenance. Administrator White stated that with proper communication regarding design it should not be a problem to maintain.

Trustee Patrick asked about the longevity of the plastic coated seats. Director Boyd will obtain the information and forward to the Board.

Motion to approve the concept by Trustee Buckingham, seconded by Trustee Gregg. Trustee Hindman requested that the motion reflect that any concerns regarding longevity be addressed to ensure that what is installed is long lasting. Motion passed unanimously.

PUBLIC HEARING DEVELOPMENT INCENTIVES

Town Planner Katers presented the recommended development incentives. This includes the timing of the payment of fees, reduction in the cost of some fees and changes to the collateral requirements. Last year there were nine single family permits issued. This year there have been none to date.

Trustee Bauer asked why the fees were not tied to the Certificate of Occupancy only instead of one year OR issuance of Certificate of Occupancy.

Trustee Hindman stated that the original timing was tied to the required inspection schedule. He asked why there was no cap on time or number of permits. Planner Katers stated that both time and number of permit caps appear to send the wrong message to the development community. He also stated that the development incentives can be amended based on direction from the Board.

Mayor Patterson opened the public hearing.

Larry Bebo asked if the collateral included off-site as well as on-site. Planner Katers responded that it included all public improvements. Mr. Bebo stated that he agrees that developers should be providing protection for the public, however, the timing on various improvements sometimes conflicts. Trustee Patrick responded that the developers have expressed that the imposition of any substantial bonding requirement while the project was in process was a hardship in obtaining the financing. He also stated that on-site improvements have a much lower potential to affect the rest of the community if uncompleted.

Milan Karspeck stated that he is supportive of the efforts towards economic development, however the waiver of impact fees is problematic. Impact fees are meant to be based on cost of providing services and waiver of the fees may help the cash flow but don't help the balance sheet in the long run. Mr. Karspeck stated that waiver of 50% of parkland dedication fees conflict with a prior study recommendation. He stated that the plan to use Open Space funds to develop the park at Mary's Farm is in conflict with the rules of Open Space funding. The waiver of 30% of public facilities fees would directly impact the development of a recreation center. This would also impact a matching grant for development of the recreation center. The recommendation to waive 100% of the Density Transfer Fee would impact development of open space in Weld County. Regarding the waiver of 50% of the Town use tax (known as the sales and use tax); the 1% Town use tax was not intended to go to the general fund. Mr. Karspeck stated that there should be public input to determine if the money could be used in this manner

since it is different than the intended use. Mr. Karspeck stated that it is critical that the public understand how these fee reductions and waivers will affect the Impact funds and future projects.

Scott Sarbaugh requested the reductions be increased. He also commented that retail sales tax rebates should be brought to the table to attract and retain retail business. Mr. Sarbaugh stated that sales tax rebates should be open to all retail businesses considering coming to Berthoud. He also stated that the 20% letter of credit is a good number but should be applied to off-site improvements only.

Leroy Gabriel recommended the fees be postponed until the Certificate of Occupancy is issued in order to acknowledge the current market conditions.

Trustee Hindman requested a one year time limit or number of permit cap in the ordinance because it sends the wrong message and people start to view it as an entitlement. He also recommended fees be delayed until the Certificate of Occupancy is issued. Trustee Hindman supported the bond requirement for off-site work and no bond for on-site. He also explained why Parkland Dedication and Development and Public Facilities fees were targeted for reduction. Trustee Hindman stated that if a date or number cap is not included it will be taken as the new fee structure, developers will start counting on it and feel entitled to it. This will cause a lot more problems when the fees are returned to the properly calculated costs.

Trustee Buckingham stated that with the current economy he would not recommend a time limit. He stated that he could support a cap as to the number of permits if the figure was 500 or 1000 rather than on time. As far as the rate reductions themselves, we are experimenting with the marketplace to determine what will generate building permits. Previous discussions have concluded that if a reduction in fees generates three more building permits it will have paid for itself. He also stated that there should be a way to sunset the fee waivers but he recommends not setting the sunset so close that it becomes ineffective.

Trustee Shepard stated that something needs to be done. However, he does not want any actions taken to negatively impact the current citizens. Trustee Shepard recommends that no time limit be set on the Ordinance and it should be left open ended. As the economy improves the ordinance can be reviewed as needed. Trustee Shepard recommended that the delaying fees with no time limit is not being responsible to the citizens. He recommends delaying the recommended fees for one year or certificate of occupancy and to include current projects in that effort.

Trustee Patrick stated that the Board is in a position of making hard decisions regarding waiver of fees. The ability of the town to meet obligations on bonded indebtedness is critical and may require reducing our impact fees. Trustee Patrick stated that we need to make it very clear in this ordinance that the waiver of fees is a temporary response to the current financial situation. He recommended that this be accomplished by a preamble to the Ordinance. He supports fees being delayed for one year or until the Certificate of Occupancy is issued. He also supported

waiving the letter of credit for on-site improvements. Trustee Patrick clarified the waiver of 1% use tax and the effect on other items that this funds. Trustee Patrick stated that if we have no building permits issued the Board will need to revisit the budget. The budget projected fifteen permits.

Trustee Buckingham clarified that 50% of the 2 percent use tax not 50% of the 3%.

Trustee Patrick if anyone on the Board had an objection to adding a preamble to clarify that this is a temporary measure.

Mayor Patterson stated that he had no problem with a preamble. He also stated that a time cap might be more restrictive in obtaining than a building permit cap. He voiced concern that too many restrictions would make this ineffective.

Trustee Bauer recommends a preamble clearly stating the intent of the ordinance. He recommended delaying fees until certificate of occupancy. He does not support the one year time limit. Trustee Bauer also supports the reduction of collateral for on-site improvements and a reduction for off-site. He would like to see a regular review to avoid the impression that these are the “new” fees. He also recommended a north Front Range press release to ensure that the banking and building community is aware of the changes.

Town Attorney gave suggested language for the preamble. He also recommended having collateral for items that would impact others, i.e. water and sewer lines and sidewalks.

Mayor Pro-Tem Gregg supports delaying the fees until certificate of occupancy. He supports a waiver of 50% of the 2 percent use tax. He also supports a regular review and language stating its temporary nature for the fee reductions.

Motion made by Trustee Hindman to approve the recommended ordinance with the addition of preamble, review in one year from adoption and the fee portion reviewed annually, payment of fees being delayed until certificate of occupancy and towns use tax discount be changed to 33% of the use tax. Trustee Buckingham clarified that the sales tax discount be 50% of the town’s portion of the use tax. Seconded by Trustee Gregg. Motion passed unanimously.

Trustee Hindman requested a copy of the development forum comments. These were distributed by Planner Katers. He also requested an update on Pioneer Park funding from Open Space Funds.

Motion made by Trustee Gregg, seconded by Trustee Buckingham to issue a statewide press release. Motion passed unanimously.

SAFEWAY UPDATE

Dan Clayton representing Safeway presented an update. In 2009 the level of capital spending will be reduced by 6 million dollars. The current project status is still in the conceptual stage. Construction will not be started to meet the sales tax rebate deadline of two years to break ground.

Trustee Patrick asked for an estimate on the timing of bringing it back to the board. Mr. Clayton believes that there should be a site plan in the next few weeks. That site plan would then come back to staff and the board.

Trustee Shepard asked if the lifestyle concept would remain. Mr. Clayton stated that the concept would remain.

Trustee Buckingham asked about investment capital for this project.

Trustee Hindman asked if there was a specific request for extension of the current agreement. Mr. Clayton indicated he will bring it back in a different form.

NCWCD USE OF WATER RESOLUTION

Administrator White presented this item. This is a yearly conversion to permanent use of CBT water. NCWCD requires the conversion to permanent use by March 1st of any CBT water temporarily allotted in the previous year.

Motion by Trustee Buckingham to approve the conversion of water to permanent use. Seconded by Trustee Patrick. Motion passed unanimously.

FREIGHT RAIL HAULING CAPACITY RESOLUTION

Mayor Patterson introduced this item. Growth Options for the 21st Century (GO21) supports increased freight rail hauling.

Motion by Trustee Buckingham, seconded by Trustee Bauer. Trustee Patrick stated that after researching this issue it appears to be an attempt by the railroads to avoid rate regulation in areas where there are no other freight options. Trustee Hindman requested that the motion be postponed until further information obtained. Trustee Bauer withdrew his second and Trustee Buckingham withdrew his motion.

Motion by Trustee Patrick to postpone the matter until further information can be presented. Seconded by Trustee Shepard. Motion passed unanimously.

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Mayor Patterson adjourned the regular meeting at 10:15 p.m. to go into executive session to discuss personnel and contractual matters.

Mayor Tom Patterson

Linda Higuera
Deputy Town Clerk