

RESOLUTION NO. 6-05

A RESOLUTION ENACTED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO CONFIRMING THE TOWN'S COMMITMENT TO THE PLANNING, DESIGN AND CONSTRUCTION OF A REGIONAL WASTEWATER TREATMENT FACILITY.

Recital 1. The Town of Berthoud has been designated by the North Front Range Water Quality Regional Commission as the entity responsible for treating wastewater in the I-25-Highway 56/Weld County Road 44 area.

Recital 2. During the last seven years Berthoud has expended substantially more than \$100,000 in engineering costs in order to determine the most cost effective way of processing wastewater for this area.

Recital 3. Since 2000 Berthoud has expended approximately \$31,500 in comprehensive planning for this region. The comprehensive master plan for this region includes the I-25 Sub Area Land Use Plan, adopted in June, 2003.

Recital 4. Prior to 2004 Berthoud had annexed approximately 2,600 acres at the intersection of I-25 and Highway 56. In 2004 Berthoud annexed the Wilson property which consisted of an additional 1,575 acres. Integral components of this annexation were the Annexation and Development Agreement among Wilson Homestead LP, McWhinney Property Group, LLC, and Berthoud. This Agreement makes the Town of Berthoud responsible for planning, designing, and construction of wastewater treatment facilities to provide adequate sanitary sewer service to development projects within this annexation. The Agreement also provides for a variety of administrative and funding issues in recognition of the fact that Berthoud had just completed its 2,000,000 gallons per day (MGD) wastewater treatment facility at a cost of \$9,500,00. In recognition of the financial burden this imposed upon Berthoud, the Agreement provides that McWhinney Property Group, LLC would advance the funds for the construction of a new wastewater treatment facility within the I-25 growth management area. In acknowledgement of Berthoud's commitment to NFRWQRC Berthoud obtained McWhinney's commitment to add additional capacity to the wastewater treatment plant for third parties as long as the entity requesting service made a financial commitment to repay McWhinney and adequately collateralize that commitment.

Recital 5. Berthoud is currently processing the Betz/Baird Annexation of approximately 45 acres located at the northeast corner of Weld County Road 44/Highway 56 and I-25. This annexation includes land to accommodate the future location of Berthoud's Regional Wastewater Treatment Facility.

Recital 6. The complexity of planning, designing, engineering, bidding, financing and obtaining the necessary governmental approvals is significantly expanded with the involvement of multiple municipalities and Weld County. By way of example, on May 12, 2005, Berthoud received the first draft of a Wastewater Treatment

Facility Agreement for Wilson Ranch. This document is ten pages long and covers items such as the construction schedule, budget, funding, reimbursement, future expansion of Berthoud's Regional Wastewater Treatment Facility. This Agreement specifically provides that no party shall be a third party beneficiary to this Agreement. To date, this Resolution has not been reviewed by either the Town staff or the Board of Trustees. Having this proposed agreement amended to include these other entities as parties or even to solicit their input significantly delays and increases the costs and complexity of the negotiations.

Recital 7. Berthoud is requiring that all developments in this region be connected to this facility.

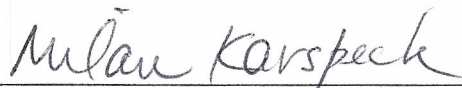
NOW, THEREFORE, BE IT RESOLVED THAT Berthoud hereby acknowledges and reaffirms its commitment to be the regional wastewater treatment provider for the I-25 and Highway 56/Weld County Road 44 area of Weld County. Berthoud further commits that, to the extent treatment capacity has been adequately funded by the entity/developer requesting service, Berthoud shall supply wastewater treatment to that entity/developer on an equitable basis in full compliance with applicable Colorado law.

Entities/Developers which are requesting commitments for plant capacity or service will be required to comply with Berthoud's regulations and requirements which will be comparable to those being imposed on entities/developers throughout this region, consistent with the terms and conditions outlined in this document.

In acting in its capacity as the authorized wastewater treatment entity, Berthoud commits to providing treatment for customers from Johnstown, Weld County, and, if requested, from Mead.

This Resolution was introduced, read and passed/failed by a vote of 4 in favor and 0 opposed at the Special Meeting of the Board of Trustees on May 17, 2005.

TOWN OF BERTHOUD


Milan Karspeck - Mayor

ATTEST:


Mary K. Cowdin - Town Clerk

Published: N/A