

**BOARD OF TRUSTEES
REGULAR MEETING
July 11, 2017
BOARD ROOM, 6:30 P.M.**

1. CALL TO ORDER

Mayor Mulvihill called the regular July 11, 2017 Board of Trustees meeting to order at 6:34 p.m. in the Board Room.

2. ROLL CALL

Kathy Webb, Administrative Assistant to the Town Clerk, called the roll. Those present were: Mayor Mulvihill, Mayor Pro Tem Buckridge, Trustee Hindman, Trustee Baker, Trustee Dunkelberger, Trustee Karspeck and Trustee Laak.

3. PLEDGE OF ALLEGIANCE

Mayor Mulvihill led the Pledge of Allegiance.

4. MOTION TO APPROVE AGENDA

Mayor Pro Tem Buckridge moved to approve the agenda, seconded by Trustee Dunkelberger.
Motion carried 7:0.

5. CITIZEN PARTICIPATION

Meg Sanders, 4373 S. Blackhawk, Aurora, CO:

Spoke about adult use cannabis and possible revenue increases with the addition of either three dollars per transaction fee on recreational marijuana inside Town limits or consider placing sales tax on such items.

Mayor Mulvihill spoke about how it will be a future agenda item. Trustee Laak thanked Meg for her appearance before the Board and Trustee Baker asked about if the prospectives provided to the Board were just for speaker's location, 'Mindful'.

Trustee Hindman continued by inquiring about the closest recreational locations and fast-tracking a referendum to get on the November ballot.

Ms. Sanders went on to state that the closest recreation site is located near the Walmart in Longmont and typically has over 400 customers per day; the next closest location is in south Fort Collins, near Trilby.

Trustee Karspeck asked about training law enforcement.

Trustee Hindman would like to see this item on next week's study session, to which Town Administrator Hart responded that further discussion would be had at the conclusion of the evening during the Agenda Review.

6. CONSENT AGENDA

The Consent Agenda consisted of the June 27, 2017 Minutes and the May 2017 Financials and Bills Allowed.

Trustee Laak moved to approve the Consent Agenda, seconded by Trustee Karspeck. The motion carried 7:0.

7. LIBRARY APPOINTMENT

Town Administrator Hart introduced Lorna Green, President of the Berthoud Library District. Ms. Green asked the Board to consider appointing Natalie Vogt to the Library Board.

Trustee Hindman moved to appoint Natalie Vogt to the Library Board for a term ending December 31, 2019, seconded by Trustee Karspeck. Motion passed 7:0.

8. EXTRACTION OIL & GAS

Community Development Director Freese presented giving a history of Extraction Oil & Gas' application for Special Use Review.

The area is zoned general commercial in the preferred land use plan. Extraction is providing a landscape plan per previous revisions, made by the Board, to the Oil & Gas Ordinance. A traffic study was also provided to the Board concerning the upgrades needed to County Road 7.

Megan Powell, Development Engineer for Extraction Oil & Gas, gave a brief company overview and plan for the site in question. She stated they hoped to start pad construction mid- August 2017, including implementing groundwater protection practices.

Trustee Laak confirmed with Ms. Powell that the total time for the project would be between four to five months. He also raised concerns regarding ongoing irrigation and a landscaping plan, specifically the size and type of trees that would be placed at the site. Ms. Powell replied that evergreens and deciduous trees would be used and confirmed her company would commit to a water schedule and the replacement of any trees that perish.

Dan Bergman, also from Extraction Oil & Gas, expanded on landscape details.

Mayor Mulvihill inquired about the roads and proportional cost to which Ms. Powell responded that she was still waiting to hear back from Town Engineer Brothers and Community Development Director Freese as to any impact fees that may apply.

Mayor Pro Tem Buckridge raised concerns about the proposed cedar fencing and maintenance to which Ms. Powell responded that her company would ensure minimal weathering and deterioration to materials over time. Mr. Bergman went on to assure the Board that his company is providing comparable mitigation, sound, light, noise, and landscape to Berthoud, as compared to other communities his company works with. Ms. Powell closed by stating she held a community meeting in Serenity Ridge for concerned citizens.

The Mayor opened the public hearing 7:15 p.m.

Duane Bentley, 2896 East State Highway 56, Berthoud, CO:

Mr. Bentley voiced his concerns involved with Synergy Oil & Gas. He told the Board that he had experienced lots of drilling near his residence and at no point was he notified. He went on to share that Synergy had placed about a dozen wells near his property. The drilling was coming closer and he expressed real shock that the diesel engines run '24/7' and installation efforts seems to run continually as well. Mr. Bentley went on to say that Extraction has worked with him but still felt compelled to voice his concerns because Synergy did not. Originally Mr. Bentley was concerned that the proposed pad would be open to the east, now told to the west, in-line with his home.

Mr. Bentley went on to say he appreciates the Town Council's efforts to bring acceptable terms to the proposed site; however, he is still worried about grade of site toward Highway 56.

The Mayor questioned Mr. Bentley about how he is currently being impacted by Synergy. Mr. Bentley retorted by asking the Board to consider sound studies. Mr. Bentley also brought to the Board's attention that nearly four years ago, the area was flooded.

Trustee Laak reiterated that per Extractions present representatives, the duration of the project would only last four to five months.

Kevin McCarty, 2275 Alpine Sky Drive, Berthoud, CO:

Owns sixty-two acres in the area. Mr. McCarty was the original developer of the area over 20 years ago, and planted a long tree belt but expressed the need for a water tap. Mr. McCarty expressed concerns that along County Road 7 it is not just the paving but lack of proper drainage that raises concern.

The Mayor closed the public hearing 7:33 p.m.

Trustee Hindman asked for clarification from Ms. Powell regarding noise after drilling and if the plan is to make the pad electric or will it use an electric generator on-site. Ms. Powell responded in the affirmative. Trustee Hindman also inquired as to what measures were being taken to mitigate sound, light and dust by Extraction, to which Ms. Powell responded discussions were being held between her company and Mr. Bentley to make him as comfortable as possible during the process.

Further discussion was held in regards to dust mitigation and the use of magnesium chloride. The Board also debated how to best provide a permanent water source for ongoing landscaping plans.

Erin Matthews, Regulatory Manager for Extraction Oil & Gas, also spoke about use of a water tap and balancing the surface owner's desires for the property as well as adhering to the use granted by the Town.

Mayor Mulvihill and Community Development Director Freese discussed Chapter 11 of the Town Ordinance. The Town Attorney will draft a resolution within twenty-one days, per code. Attorney Bell commented it is outside of the Town's jurisdiction to interject conditions of the build on behalf of the surface owner.

Trustee Hindman suggested to Director Freese that the conditions of Special Use Review be considered yearly for better enforcement in the event violations occur.

Mayor Pro Tem Buckridge raised the issue of street improvement plans and how to best calculate impact fees for County Road 7. Town Administrator Hart gave an update and possible funding sources. Mayor Pro Tem Buckridge was glad to hear that large deliveries to the site would be limited to business hours.

Town Administrator Hart commented that preliminary engineering needed to be done on County Road 7 first before it could be paved.

Trustee Karspeck, with much respect to Mr. Bentley, pointed out that Love's will be coming soon. He also commented on the possibility of a water tap when retail becomes more prevalent in the area. He would like to see the installation of electric fueling stations with the funds generated by the local Impact fees. Renewable energy alternatives would be appreciated.

Mayor Mulvihill also expressed his sincere appreciation for Mr. Bentley's situation.

Trustee Hindman moved to approve Use by Special Review for the MLD Wells as per the findings of the Staff Report, with the requirement for slight mitigation at the access point and a permanent water source is provided for ongoing irrigation and operations. Seconded by Trustee Laak. Motion carried 7:0

A break was taken at 7:53 p.m.

Meeting reconvened at 8:00 p.m.

9. HERON LAKES REZONING TRACT E

Community Development Director Freese presented giving a brief history of the development and recommending the zoning change of single family to mixed uses (R4).

Jim Birdsall with The Birdsall Group, the applicant, said one characteristic of the development is a very strong topographic ridge, and therefore requires flexibility. The intent is for multi-family use to take

advantage of views and also incorporating some commercial space while recognizing caps for density and strain on the existing sewer system.

Trustee Laak stated the proposal seemed sensible, he likes the idea of live/work space co-existing. Mayor Pro Tem Buckridge commented that he is excited by this project's flexibility and pointed out the Board will have the opportunity to review concept and final site plans as development progresses.

Mr. Birdsall stated that his group has already submitted the first phase of the Club House site plan to the Community Development Department and has had some tentative hotel interest, to the north of the Club House.

Mayor Mulvihill opened the public hearing 8:11 p.m.

Elizabeth L. Kearney, 549 N 4th St, Berthoud, CO:

Ms. Kearney gave history of Heron Lakes, and voiced her concern about increased density. Ms. Kearney believes the Colorado Trail is an 'awesome' addition along with the idea of proposed cafes and side street retail space. She is glad to hear about the applicant's recognition of the need to cap density in the area and expressed concern over the long-term environmental impact on local lakes, osprey, herons and other wildlife.

Town Administrator Hart went into further explanation of caps, clarifying that no additional units have been planned, only rearranged.

Ms. Kearney had a further question about notices to adjacent properties and she urged the Board to review the current policy to include a bigger radius of residents who may be affected by the development.

Mayor Mulvihill closed the public hearing 8:16 p.m.

Mr. Birdsall addressed Ms. Kearney's zoning and density apprehensions, commenting that little has changed since the original filing in 2006. Mayor Pro Tem Buckridge confirmed with the applicant that the footprint increased and not the density, by combining two projects. Mr. Birdsall also commented on Lone Tree Reservoir remaining a public facility. The Board applauded the efforts of the Metro District and the hope of keeping the wildlife safe.

Mayor Pro Tem Buckridge moved to approve the request to rezone 18.837 acres from Single Family (R-1) to the Mixed Use (R-4) District, finding that:

1. **Satisfies the applicable zoning amendment criteria of Section 30-3-110.B of the Town's Development Code as found on pages 4-5 of the Staff Report; and**
2. **Is consistent with the Town of Berthoud's Comprehensive Plan and Preferred Land Use Map.**

Seconded by Trustee Dunkelberger. Motion passes 7:0.

10. HERITAGE RIDGE FDP & FINAL PLATS 2-5

Community Development Director Freese presented giving a history of the project stating it is still a PUD with set density limits. The Final Plats are divided due to the Town's water policy. The Plan includes 118 acres with 194 single family lots.

Kristen Turner, with the applicant, is excited about how the whole project is progressing. Filing is happening as the project progresses north to south. The Plans include an amenity center including a clubhouse and pool. All changes requested by the Board are in compliance.

Discussion was held in regard to what the area's Metro District responsibilities are and how fees are accessed.

Mayor Mulvihill opened the public hearing 8:38 p.m.

There being no public comment Mayor Mulvihill closed the public hearing 8:39 p.m.

Trustee Karspeck moved to approve Heritage Ridge FDP and Final Plats for 2, 3, 4 and 5 as per findings found in pages 2-3 of the Staff Report. Trustee Dunkelberger seconded. Motion carried 7:0.

11. GATEWAY NORTHEAST FINAL PLAT

Community Development Director Freese presented stating this is a small project of only 3 acres with 6 lots approved with the concept plan, skipping the preliminary phase with added detail to commercial property.

Craig Wrigley with Sunriver Development/Integrity Homes, the applicant, addressed the Board.

Mayor Mulvihill opened the public hearing 8:43 p.m.

The being no public comment Mayor Mulvihill closed the public hearing at 8:44 p.m.

Trustee Dunkelberger moved to approve Gateway Final Plat, with the findings that it is consistent with Section 30-6-106 found on pages 2-3 of the Staff Report. Seconded by Trustee Baker. Motion carried 7:0.

12. PURCHASING POLICIES

Senior Accountant Cindy Leach presented the amended version of the current policy with updates to keep up on reasonable practices. The current policy states that approval is needed for anything over one thousand five hundred dollars and she is asking to change that amount to two thousand five hundred dollars or above. Accountant Leach is also seeking requirement of a purchase order at or over two thousand five hundred dollars and any items at or above five thousand would require three (3) bids.

Discussion was held on the topic of bids and sealed bids.

Attorney Bell explained the sealed bid process is more formal and designed for construction process. Purchase orders would need to be signed by the Town Administrator.

Mayor Mulvihill directed staff to research with other Towns to see what their process is, and proposes that once the budget is approved a single purchase order be brought back before the Board for approval at a set amount with direction that this can't be circumvented by issuing multiple purchase orders for the same item.

Discussion was held on the legal level of control, balancing of efficiency with accountability, and monetary limits. Attorney Bell offered to craft the policy change.

The Board tabled adopting this proposed Resolution establishing purchasing and expenditure approval policies. Motion carried 7:0 by a show of hands.

13. BUDGET PROCESS OVERVIEW 2018

Senior Accountant Leach presented for information only and asked if there was a request for a more particular direction or more breakdown on the Board's priorities.

Town Administrator Hart explained that the Budget Review process would look at staffing considerations but also areas where the Town is underfunded and will be considering community wide items. Ms. Leach interjected that it is her desire to also examine long-term planning and explore various revenue streams.

Town Administrator Hart mentioned that staff had met with Mountain States Employment Council.

14. TOWN CLERK POSITION

Administrator Hart presented beginning with pointing out that the advertised position is strictly as a Town Clerk and will not be including the Assistant Town Administrator component. Attorney Bell pointed out that the Board appoints the Clerk.

Mayor Mulvihill voiced concerns about hiring for the position now when they would only be reaffirmed in April under the new Board and by acceptance of the new Town Administrator.

Discussion was held and Trustee Hindman wished to explore the possibility of hiring a clerk in the interim to which Mayor Pro Tem Buckridge stated the key is to hire now especially with an election in the Spring, understanding that the position serves at the pleasure of the Town Administration and is appointed every two years by the Board. He deferred to staff but believes we need a qualified candidate and soon.

Trustees Baker and Laak discussed the possibility of an interim candidate but were concerned about the quality of applicants if the Town advertised as such. Town Administrator Hart pointed out that all key staff positions are appointed by the Board.

Further discussion was held with Trustee Karspeck pointing out that the job description also needs to include supervisory responsibilities. Trustee Dunkelberger agreed to serve as Board liaison during the search process.

Accountant Leach pointed out to the Board that a written performance review is completed after six months for all staff and annually thereafter.

The Board directed staff to post the position and proceed with the hiring process to fill the Town Clerk vacancy.

15. REPORTS

Town Administrator Hart introduced a communications overview and raised concerns with Slate Communications' current contract and the possibility of hiring an 'in-house' Communication Officer. Trustee Hindman spoke about how it makes more sense to have someone who is solely dedicated to the Town's interest, full-time, and works directly with staff and is familiar with the Town. The Board supported the creation of this position.

Administrator Hart also reminded the Board that we would be hosting the CML District meeting in October and mentioned that he spoke with Jon Turner about a possible sponsorship. He also raised the option of hosting some event here at Town Hall prior to the dinner, which will be held at Brookside Gardens.

Trustee Dunkelberger introduced Youth Advisory Commission (YAC) members Gabe and Matt. She gave an update on the committee offering that in lieu of a Staff Liaison, key staff would be rotating to give YAC members a broader sense of the workings of our municipality.

Trustee Buckridge reported on the Historical Preservation Committee's approval of applicant. He also asked the Board to consider meeting to discuss distinguishing between staff and Board responsibilities, and possible changes. At the Board Retreat, earlier this year, a follow-up meeting was discussed, and he would like to do so after final applicants are received for the Town Administrator position.

Trustee Hindman stated that the PORT Committee met earlier in the week. Trustee Laak attended. He stated that the committee is starting over but poised to make progress. He inquired about receiving some staff help since everything hinges on funds and that perhaps the Larimer County Open Lands Advisory Board may serve as a good example of how things are presented. He invited the Board to the tour on Monday, July 24th.

Trustee Karspeck stated that he would be attending two water classes over the next two weeks and an EAB tour in Boulder in September.

Trustee Baker attended the MPO meeting in Severance recently. She had seen the flyer for Berthoud's National Night Out event and proposed an area emergency preparedness fair.

Trustee Laak spoke about the Tree Board recommendations, Main Street improvements, and would like stronger code enforcement downtown; sandwich boards not taken down at night.

Administrator Hart also reported that CDOT finished their speed study. Sergeant Anderson also commented on increased traffic signage and would like to increase pedestrian education.

Trustee Karspeck spoked on there being some dark spots in town, and perhaps two or more signs covered by branches. He asked if CDOT would allow us to place LED lights in signage. The Board directed staff to consider pedestrian structure and explore the possibility of utilizing crossing guards.

Mayor Mulvihill asked about access to Town Hall after and before normal business hours. He asked if other trustees that would like access as well. Trustee Dunkelberger stated that she did not understand why Board members would need access to Town Hall outside of normal business hours. Trustees Karspeck, Laak, Baker and Buckridge supported the Mayor's request.

Mayor Mulvihill would also like to see a balance sheet and receive further explanation of the old Town Hall leases and associated monies.

Attorney Bell reported that the contracted agency will be providing the top candidates for the Town Administrator position within the next week or so, and the Board would be expected to whittle down to their top three by late July. Future Executive Sessions would be needed. Also, Bargain Storage has filed another appeal and will be before the Board at a later date.

16. AGENDA REVIEW

Trustee Hindman sought clarification about the PORT impact fees scheduled on the agenda for July 25th. He would also like to add Recreational Marijuana discussion. Attorney Bell suggested breaking the marijuana topic into two sections; the first being getting the tax issue on the ballot whether or not the Town legalizes the issue and secondly authorization of legalization. The Board agreed.

Mayor Mulvihill brought up that LL&D Ditch Company is looking for a Board member. Administrator Hart also mentioned that Handy Ditch was also looking for a Board member and would like to put Town Engineer Brothers forward for the position. The Board agreed after some discussion.

17. ADJOURN

There being no further business to come before the Board at this time, the meeting was adjourned at 10:16 p.m.

Approved this 8th day of August, 2017.

APPROVED BY:

ATTEST:

kathy webb
Kathy Webb, Administrative Assistant

Steve Mulvihill
Mayor Steve Mulvihill

