

TOWN OF BERTHOUD  
BOARD OF TRUSTEES  
REGULAR SESSION  
OCTOBER 22, 2013  
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The Town Board of Trustees met in a regular session at the Berthoud Town Hall on October 22, 2013 with Mayor David Gregg presiding. The meeting was called to order at 6:30 p.m.

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| Members Present: | Mayor David Gregg<br>Mayor Pro-Tem Jan Dowker<br>Trustee Bauer<br>Trustee White<br>Trustee Alaback<br>Trustee Shepard<br>Trustee Jones   |
| Staff Present:   | Town Administrator, Mike Hart<br>Planner, Tim Katers<br>Planning Technician, Sue Bowles<br>Business Development Manager, Ron Schneider<br>Deputy Town Clerk, Tamiko Brewster<br>Interim Police Chief, John Feyen |

Mayor Gregg explained that because the legal notices for the public hearing for the Haworth Annexation showed a 7:00 start time, the hearing cannot open until then, so the order of the agenda was changed.

**CITIZEN PARTICIPATION**

There was no one wishing to address a non-agenda item.

**CONSENT AGENDA**

**Dowker moved to approve the Consent Agenda consisting of the minutes of the meeting of October 8, 2013. Second by Bauer. All members vote YES.**

**REPORTS**

Administrator Hart reported on some CML dinners coming up. He further reported that the Kerr McGee/Anadarko deep injection well application has been put on hold for now.

In regards to what's going on in the police department, we still don't know more than we did a week ago. When we get news we'll let you know.

Hart reported on the flood damage on WCR 1 and also CR 44 where the bridge is out. FEMA has to approve the engineering, design and so forth. We're working as fast as we can, but we have to make sure we'll be reimbursed. It's about a million dollars and we don't have the money to spend and then have to wait to be reimbursed.

Shepard reported that the Chamber sponsored a golf tournament and received enough donations for 2 scholarships.

Dowker reported that on a CML meeting last week regarding historical tech support and a counterterrorism learning lab event with Mark Udall and Leon Panetta.

Bauer reported that last week he attended an interconnectivity study workshop regarding high-speed rail from Fort Collins to Pueblo. The public has an opportunity to comment on November 4<sup>th</sup> at a meeting in Windsor.

Alaback attended a county open space board meeting regarding the grants program.

Mayor Gregg called a recess at 6:42 p.m. The meeting reconvened at 7:02 p.m. into a public hearing.

#### **HAWORTH ESTATES COMPREHENSIVE PLAN, ANNEXATION & ZONING**

Mike Hart addressed the Board explaining that the Haworth's are processing an application for annexation. Tonight will be a public hearing on the annexation, zoning, and Comp Plan land use designation.

Attorney Greg Bell explained that the matter before the Board is driven by a statutory process. You're acting as a legislative body. Any person has a right to speak. At the end you'll be asked to decide whether it meets eligibility requirements and whether you want to include the property in the Town.

Administrator Hart explained the process, noting that this property was included in the GMA on June 11, 2013. The Haworth family is requesting annexation, a land use designation of Low Density Residential, and zoning of Agricultural which limits development of the property to one dwelling unit per acre. Hart went through the 7 review criteria for a comp plan amendment. Hart further noted that the request tonight is for three lots; a 5 acre lot, a 10 acre lot containing the original homestead, and a 66 acre lot. He further explained that with zoning of AG with one unit per acre, by the time you take out rights-of-way, and so forth, you lose about 20%, so if you take away the 20% and the 5 and 10 acre lots, that leaves about 60 lots. However, right now, all that's in front of the Board is 3 lots.

Planner Katers explained the contiguity aspects of the annexation noting that this application is in compliance with State law.

In regards to providing a fiscal impact model, Hart explained that it's virtually impossible when you have 3 lots. If this were a real development we'd have that information, but this is not a development. There are no impacts in its present form. Berthoud schools are underutilized, and there were even discussions in the past of closing one of the elementary schools because of the low student count. Regarding utilities and the Town's ability to serve the area, we have a large sewer pipe a stones throw from this. LTWD would supply water and they have no issues with that. We just signed with a rural development to bring them onto our sewer. We need more customers to share the debt load. We're okay with providing that service to rural property if they want us to.

Katers addressed the public notice and timing requirements and noted that all State mandated requirements had been met. He further noted that the Planning Commission met on October 7, 2013

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and was attended by a full house. 23 people spoke as well as 2 members of Haworth family. The Commission recommended approval of the Comp Plan Amendment, the annexation, zoning of AG, and approved the minor subdivision of 3 lots conditional on Board approval of the items before them tonight.

Karen Sorenson addressed the Board on behalf of the Haworth family, explaining that originally they were asking for R-1 zoning of 4-6 units per acre, however, they decided to compromise with 1 unit per acre. Karen explained what would have been allowed by the county under FA1 zoning. We're not proposing a subdivision, just annexation and zoning.

Mayor Gregg opened the meeting for public comments.

The following people addressed the Board in opposition to the Haworth application:

Chris Pollock – 2604 West CR 8  
Michael Howard - 2701 Pheasant Run  
Meredith Neitenbach - 3000 Pheasant Run  
Karen Moschini - 1708 WCR 10-E  
Angela Mangan -Thompson – 2605 West Co Rd 8  
Tom Londrigan – 905 Wilshire Dr  
Jeff Hindman – 348 Turner Ave.  
Joe Coons – 1045 7<sup>th</sup> St.  
John Thompson – 2605 WCR 8  
Jack Strandquist - 2705 Lake Hollow Road  
Christopher Schieffer - 415 West Hill Dr  
Craig Wilks – 406 Longs Peak Ave  
Janice Gibb – 613 Sundown Ct.  
Katie Nelson – 406 Longs Peak Ave.  
Robert Johnson – 2120 Sheryl Ct.  
Robert Michael – 1036 SCR 21  
John Ellis – 435 SCR 23  
Laine Miller - 2007 Preserve Dr  
Dave Samuels -1587 Preserve Dr  
Jeff Lorentzen – 5325 Gary Dr  
Ken Kneival – Goose Hollow  
Jenny Brown – 506 CR 48  
Kathleen Henning – 531 S. 9<sup>th</sup> St.  
Lonnie Gaudet - 3000 Lake Hollow Rd  
Nancy Lamb – 1101 CR 19  
Erin Massa – 825 NCR 21  
Steve Gardner – 3833 WCR 8  
Guy Scoma – 1028 NCR 21  
Milan Karspeck – 706 8<sup>th</sup> St  
Wynne Maggi – 201 E. Michigan Ave.  
Eric Berg – 1001 Jefferson Dr.  
Benjamin Zink – 739 Mountain Ave.

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Don Frazier – 4438 Foothills Dr.

Kevin Lundberg – 2525 WCR 8

Diane Pollock – 2604 WCR 8

Ken Beckert 2475 WCR 10

David Meeker – 840 Longview Ave.

Concerns expressed by those in opposition are summarized below:

Maintain the small town character of Berthoud

Keep the rural feel west of CR 19

Traffic will increase and will impact the roads

The Town needs businesses, not rooftops

Concerned about the Town's ability to provide services

Want smart growth, not sprawl

Should grow from the inside out and develop the over 2,000 lots already approved

Road maintenance

Costs outweigh the benefits

Protect the eagle nests

Protect the rural lifestyle and views

Town's ability to provide snow removal services

The Town is not respecting the Comp Plan

Concerned about the intersection at Hwy 287 and Hwy 56

This is not a 3 lot proposal but a proposal that would allow many more homes on the property

This is a breach of trust where density will raise in the future

There will be maintenance and snow removal issues if LCR 8 is under town jurisdiction

Proposal is incompatible with surrounding area

Growth should be from the inside of the town outwards

Negatively affects investments made by others west of town

Issues with expansion of the Growth Management Area

The following people spoke in support of the Haworth application:

Becky Justice-Hemman – Berthoud Surveyor - 440 Mountain Ave.

Jim Birdsall – The Birdsall Group – 444 Mountain Ave.

Deanne Mulvihill - Director of Chamber of Commerce

Their concerns and comments are summarized below:

We need to change the negative impression and show that Berthoud is open for business and bring jobs, retail and rooftops.

Town population only increased by 200 people in 10 years.

We need more citizens to pay the Town's indebtedness.

Growth creates new town buildings, better parks, trails, streets, recreation centers

\$. 78 of every dollar spent goes to Loveland and Longmont.

Business owners are seeing the "door closed" message.

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The Comp Plan is just that, it is not a contract and amendments are common.

Meets all Colorado statutes and does not infringe on neighbor's property rights.

Development in the county is "sprawl" and so is developing at one unit per acre.

Should be higher density that would support the commercial at the Revere property across the street.

Infrastructure is directly adjacent to a Town road and to an underutilized sewer service.

Berthoud businesses are struggling with empty storefronts and the Wayside Inn is still empty.

Hwy 287 and Hwy 56 intersection is a hub for the town and should have dynamic growth in that area.

It benefits the town to have residents within town limits using water and sewer.

The Town has bonded indebtedness whether there's growth or not.

Properties previously approved are not being built because nobody is willing to put in infrastructure.

Send the message we are open for business.

Business owners were afraid they would be boycotted by west Berthoud rural residents if they spoke up.

Tom Donnelly, County Commissioner addressed the Board saying the County would be willing to work with the Haworth's to meet their needs if the Town doesn't approve the application.

Karen Sorenson addressed the Board stating the Haworth family has always encouraged people to speak with them. Chris Pollock did contact us after the signs were put up and postcards sent and Diane Pollock came into her place of employment and accosted her in front of customers. We also received a letter from a Boulder attorney threatening us with a lawsuit. Everyone keeps stressing the neighborly feeling of Berthoud. Being neighborly does not mean name calling, backstabbing, bullying, threatening or harassment at my place of employment. Our Father supported this town by shopping locally as much as possible and whether you approve or not, we've been good neighbors, we've always been respectful of the Town, and we've always supported our hometown.

Mayor Gregg suggested narrowing the discussion down to the facts. A lot of things have been brought up tonight and in emails, social media, etc. There is no development proposal before us tonight. This is a request for annexation, rezoning, land use designation, and a three lot subdivision. If a development proposal comes before us we will address it at that time. It has been stated numerous times that this is a request for 160 homes. That is not fact. It has also been stated that this is flagpole annexation. It is most certainly not. That there has been no public input is also false. There were 8 public meetings on the comp plan, and numerous meetings for this property. It was beyond insinuation that this is an annexation and rooftop happy Board. The last development that has come before the Board was the Ludlow annexation almost 4 years ago. Since that time, the town has secured several open space parcels including the Jaskowski property of 80 acres, the Heron Lakes peninsula of 43 acres and with the possibility of another 100 along Lonetree Reservoir, 90 acres on the Kneival property, 83 acres on the Richardson property, and 3 acres on the Carter property to allow public access to Berthoud Reservoir. That's over 300 acres of secured open space, plus another possible 100 acres at Heron Lakes. This is not a Board that takes development lightly. This notion that we are rooftop happy is not what this Board is about. We base our decisions on the merits and facts before us. What's before us is an annexation request and zoning request and three lots.

Bauer noted that the Town has a right to farm statement, and leases property to farmers. We are allowed to have chickens in town. Loveland Reservoir allows hunting on the west side. Smart Growth America website explains that "smart growth" is a better way to build and maintain our towns and

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cities, urban, suburban and rural development providing transportation choices building a healthy community near jobs, with neighborhoods located near schools and with strong businesses. This property abuts high density mixed use commercial. Smart growth doesn't mean putting commercial next to open land and expecting it to be successful. Our duty as elected officials is to have a vision for our town and grow appropriately. That is an incredible hub at Hwy 56 and 287. It makes sense from a planning perspective to have a vision that incorporates that area. Bauer was at the table when we had the debates on the Comp Plan. It wasn't unanimous and it was a consensus in the end. There were discussions of the boycotting that could happen if the right decision weren't made. We were threatened tonight by many people who said if you vote one way you're dooming yourself.

Mayor Gregg agreed that 160 homes is a bad idea in this location. We say density should be feathered at our edges and suggested a condition that until such time as the comp plan has been reviewed, could we consider capping the lot size at 1 acre minimum.

Attorney Bell said they can enter into an annexation agreement if the applicant would agree it, and that is then recorded and applicable to the land. However, there's no use-by-right to develop this property, so in a sense you already have that one acre limit.

There was some discussion on whether the review of the comp plan might determine in the future that the best use of the property would be higher density if the Hwy 287 and Hwy 56 area are going to be a commercial hub. If the land use designation says 1-2 units per acre, they could propose 2 units per acre; however, the zoning says one unit per acre. There are a number of ways this could develop, including clustering. The comprehensive plan is a guiding document, it is not a contract.

Dowker stated that she appreciates everyone's feedback. No matter how the Town votes, it is a neighborly place and we are invested in our community and we care about how it's going to grow. The comp plan meetings were open but nobody attended. There are 2 committee members that live in the west rural area. We're doing our best to represent this town.

Jones said he realizes there is a lot of opposition and what he doesn't want to see is the Haworth's getting into something it's going to take years to battle. Ed Burn, the attorney that has been hired states that if the Town approves that annexation the appeal process could take time and negatively impact the property.

Bell said that the letter is an attempt at legislation by threat. No one has standing except the property owner. There is no court appeal process as long as the statutory procedure has been followed. It could be voted on, but it is only the voters of the Town that could vote on it, and that could further divide the neighbors to the west.

White said her vision is not a lot of houses but rather estate lots. I don't want big subdivision but that's my personal feeling. What's before us is not about my personal feelings. Despite my feelings about medical marijuana, although I didn't want it, the rules were followed so I voted yes because that's what was before us. It's hard when we hear the pleas from the county and it's hard when we're accused of being on the take and other things. We try to do our best for this town and we're thoughtful about it.

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Shepard – This has been an evaluating process for the past few weeks. The Haworth's have been here since 1901 and have been good neighbors. This is not a strategic parcel for the Town of Berthoud. Bottom line is we have this family trying to follow through on their Father's wishes to come into Berthoud and to develop according to our rules. There will be plenty of memories of what we've gone through with this discussion. We take our heritage very seriously. This family has a long history with Berthoud and with farming.

Alaback – the real question is how Berthoud is going to grow. I think this property is strategic. The GMA should have given us 20 years of growth for Berthoud. We have developable land. This is an important decision. We're setting precedent on how we're taking direction from the comp plan. We should grow from the center out. All the subdivisions that have been proposed are logical. Not sure why we're making a decision right now.

Gregg explained that we've been asked to make a decision. This is a hearing and they are asking for a decision, and he again suggested that we talk about a condition on the annexation limiting to no smaller than one acre lots or net density of one unit per acre until such time as the comp plan is amended and adopted.

Bell noted that the right way to do that would be to ask for the applicant to agree to that condition.

Karen Sorenson said it would not be an unreasonable condition. Charles Haworth agreed that the most anyone could expect with the easement and the zoning would be less than 60 units. If a developer comes forward then you have the right to decide what the developer wants. They are all in agreement with one unit per acre.

Shepard noted that at one of the comp plan committee's last meetings it was discussed that the GMA would go to CR 21 with feathering beginning west of CR 19.

Dowker asked the audience to make suggestions on how the Board can keep people informed, whether through social media, the website, etc.

Jeff Hindman suggested tabling the decision for a month.

**Bauer moved to amend the Comp Plan Land Use Map to reflect Low Density Residential land use designation on the Haworth property. Second by Shepard. All members vote YES.**

**Bauer moved to approve Resolution 15-13 subject to an annexation agreement condition of net one unit per acre until such time as the Comp Plan has been reviewed. Second by Dowker.**

Alaback still felt the timing was wrong and we should wait.

Jones said we should talk with the Haworth's and with the county. It will be built relatively the same. We're looking for the best situation for that property and we should take this slower.

**Shepard, White, Dowker, Gregg and Bauer voted YES, Jones and Alaback voted NO.**

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**Bauer moved to approve Ordinance 1170, an ordinance approving the annexation of land to the Town of Berthoud, Counties of Larimer and Weld, State of Colorado, to be known and designated as the Haworth Estates First and Second Annexations. Second by Shepard. Shepard, White, Dowker, Gregg and Bauer voted YES, Jones and Alaback voted NO.**

**Shepard moved to approved Ordinance 1171, and ordinance zoning real property known as the Haworth Estates First and Second Annexations as AG: Agriculture by the Town of Berthoud, Larimer and Weld Counties, Colorado. Second by White. All members voted YES.**

Meeting adjourned at 11:15 p.m.



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David Gregg, Mayor

Sue Bowles  
Planning and Building Technician, Sue Bowles