

Town of Berthoud  
Regular Meeting  
June 25, 2013  
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**BOARD OF TRUSTEES  
REGULAR MEETING  
JUNE 25, 2013  
BOARD ROOM  
7:00 P.M.**

Board Members Present: Mayor David Gregg  
Mayor Pro-Tem Jan Dowker  
Trustee Suzie White  
Trustee Dick Shepard  
Trustee Paul Alaback  
Trustee Thomas Jones

Board Members Absent: Trustee John Bauer

Staff Members Present: Town Administrator Mike Hart  
Town Clerk Mary Cowdin  
Attorney Greg Bell  
Business Development Manager Ron Schneider  
Planner Tim Katers  
Engineer Stephanie Brothers  
Accountant Faith Smith  
Administrative Clerk Tamiko Brewster

Mayor Gregg called the meeting to order at 7:00 PM.

The Mayor led the Pledge of Allegiance.

**Citizen Participation**

Mayor mentioned Joe Coons was listed on the sign-up sheet. Town Clerk Cowdin already talked to Joe and answered his questions, so he had already left. No one else had signed up.

**Consent Agenda**

Consent Agenda consisted of the June 11, 2013 Minutes, the Bills Allowed for April 2013 and May 2013, and the April 2013 Financial Statement.

Mayor Gregg said he was asked to move the Financial Statement off the consent agenda and move it to the regular agenda.

Trustee White noted that on page 4 of the June 11<sup>th</sup> minutes where it states she addressed Ms. Pollack, it should say "how" not "why".

Mayor Pro-Tem Dowker noted that on page 6 of the June 11<sup>th</sup> minutes under Reports – it was not an MPO meeting, it was a CDOT meeting held for Impact 64 to which the MPO was invited. It was a public meeting, but not an MPO meeting.

**Trustee Shepard moved to approve the Consent Agenda with corrections stated and item 5C pulled for discussion under regular items. Trustee Alaback seconded the motion. Motion passed unanimously.**

### **April 2013 Financial Statement**

Town Administrator Hart explained that the Financial Statement is totally new.

Faith Smith has been working for the last year on the financial statements to roll out a new one that is not so confusing and will not have so much detail. This is more of a synopsis for the month of April of revenue, expenditures and activity. This will be put out each month.

Administrator Hart explained that we have changed our budget process to an activity based budget. The financial statement will be more in line with the budget in the future.

Page one – sales tax and use revenue, and all other revenue and expenditures, there will be an explanation for larger items. History of where we have been in the past for the month of April. We are going on an upward trend.

Page two – combined statement of revenues and expenditures, current month, year to date actual, year to date budget and the percent of the budget. Strictly revenues verses expenditures, doesn't include fund balances. The system divides the budgeted amount between the 12 months for the year and figures the percentage based on that. We will be working with the software company to get it tuned to show the actual trends and match the budget to the cycles. Also shows prior year revenue through the same month as financial statement.

Also has a graph to show revenue for general fund and special revenue in Water and Wastewater showing the trends. There will be a note to explain any huge increase or decrease.

Page three – activities for all of the departments. Berthoud At A Glance.

Administrator Hart said this will all be on the website.

Also included is the roll-up of the Sales and Use tax revenue report.

Trustee Shepard asked if the year to date revised is the budget for the year or what should have been gathered or spent for the first four months of the year. The percentage is for the total budget based on one 12<sup>th</sup> of the budget per month. Administrator Hart explained that the amount will be changed now when they do a supplemental to the budget instead of waiting until the end of the year.

Mayor Pro-Tem Dowker clarified that we are working on getting the percentage more in line with the actual for things like the pool.

Faith explained that we are still working with our software company to get some of the items fine-tuned.

Mayor Gregg likes the new format. Mayor Pro-Tem Dowker thinks it is visually easier to explain when you have the charts that are included.

The website will include the Financial Statement and the Berthoud At A Glance as well as the Bills Allowed.

Faith stated that this is a work in progress and if there is anything that needs to be changed please let us know. Trustee White thinks it would be helpful to include what the total amount budgeted for the year is in a final column. Administrator Hart explained that you run out of paper if you keep adding more and more columns.

**Trustee Shepard made a motion to approve the April Financial Statements. Mayor Pro-Tem Dowker seconded the motion. Motion passed unanimously.** Mayor Gregg thanked staff for the easier to read format, seconded by Trustee Shepard.

#### **Proposed Ordinance re: Rezone of Hilltop Manor**

Planner Katers explained ordinance to formalize action taken on last meeting, June 11<sup>th</sup>. Rezone of the Hilltop property. This does not deal with the subdivision at all. The Planning Commission dealt with the subdivision in their action. The recommendation is to approve Ordinance 1160 rezoning the property from R1 to R2.

**Trustee Jones moved to approve Ordinance 1160. Motion was seconded by Mayor Pro-Tem Dowker. Motion passed unanimously.**

#### **Resolution re: FTA Funding**

Engineer Brothers explained that this is to give Administrator Hart the authority to sign the certification and assurances document along with the Town Attorney. To complete the grant process we need to have the authorization approved. This is the 5307 Federal funding for BATS. Trustee White commented on the memorandum from Attorney Gould, saying that it looks like he is worried about the wording of the paperwork. Attorney Bell explained that the attorney's sign authorizing Administrator Hart to sign the document. Administrator Hart signs the document saying that he believes to the best of his knowledge that we are in compliance with all of the programs we need to be in compliance with.

**Trustee Shepard moved to approve Resolution 6-13 authorizing and directing the town administrator to execute the FTA Fiscal Year 2013 Certifications and Assurances on behalf of the Town. Trustee White seconded the motion. Motion passed unanimously.**

### **Review Of Items From Town Community Meeting**

Mayor Gregg stated this is a review of miscellaneous items from the meeting held on April 30<sup>th</sup> and this will be an open discussion led by Administrator Hart. Said there were not really any bigger policy issues except for the Vendor Licensing policy including door to door vendors and food vendors. Town Clerk Cowdin explained that both she and Business Development Manager Schneider have been working on this issue including gathering information from several communities regarding how they handle vendor licensing, meeting with businesses in town, and meeting with the Chief of Police to get an enforcement perspective. There is a wide variety of ways it is handled. They blended the information to come up with possible ways to handle vendor licensing for the Board to look at and consider regarding which issues should be included in the proposed ordinance to bring back for approval as soon as is possible. Administrator Hart asked her to mention existing ordinance, which she said is basically fill out brief application listing the name of your business, the address, the contact information and a list of the employees that will be operating the cart or going door to door as all are lumped together in one application. It is \$250.00 per year. Background checks are run and we have occasionally had to deny license based on background checks, so it is important to do that. Problem is really with door to door vendors and we won't be spending too much time on that tonight. We don't even have a provision to require that they have to show us a Health Department certificate, which is important if you are selling food. We do not currently require that they show us they have a County Sales Tax license, we do require a State Sales Tax license. Ordinance went into effect before the county started collecting sales tax. We currently have one licensed vendor; we usually don't have more than two or three a year. We do require a \$500.00 surety bond which is included in the information being presented tonight that we would like to change that to a different type of insurance proof. There are a couple of different options as recommended by Cirsa. Ron went to every establishment that served food and/or beverages and let them know about this meeting and that if they were unable to attend and had any input pro or con to email and they would pass along any comments. They only had one from the New China Chan Restaurant. Administrator Hart mentioned that we recently issued a citation to one vendor that is here on a regular basis and does not have a sales tax license or a vendor license. Mayor Gregg summarized for the audience the recommendation citing the summarizing of the 12 surrounding communities and what their requirements are and that we use what we can when it saves us time and money to get to the end result. He thinks Town staff did a good job of taking the best parts of other policies and recommend the following policy: new application, proposed fee of \$120.00 per calendar year which can be reduced by 50 % after July 1, change in insurance bond from the surety bond to presenting evidence of certificate of insurance naming the Town as additional insured, sales tax license from state, county and town to be displayed during hours of operation, background checks, health department certificate, description and photo of mobile unit, locations where they will vend (must be approved by police and fire departments), must be a minimum of

100 feet from a like business (bricks and mortar) unless permission from business owner in writing, has to be six feet away from building for proper access, need written permission from property owner they will be in front of, obtain licenses and provide hours of operation and premises must be maintained in a clean manner and picked up afterward.

Whitney with City Star Brewery, Downtown – these recommendations sound awesome and staff put a lot of work into them, appreciates that staff has taken the time to look into this, the only concern she has is she sees the background checks as unnecessary for food vendors, and recognizes there may be more behind it than she is aware of

Sheila Habericom, 165 Red Cloud Ave, Berthoud – is there a fee for the background checks per person? Town Clerk said it is around \$7.00 per person

Rudy asked what the definition of a like business is: it is undefined at this point, terms will define when it is decided what should be in the policy

Attorney Bell does not think it will be that hard to define out what the Town wants in the policy. He thinks the Health Department catches the bulk of the key issues in this, so if they have the Health Department license then the Town is really interested in access, public safety, and some level of equity with property owners.

Mayor Gregg suggested we leave the definition up to the administration until it becomes a problem as it is going to be subjective no matter how it is defined.

Attorney Bell asked about the background checks and how relevant they are. Mayor Gregg said in Berthoud we do care. Attorney Bell pointed out that the basis would have to be spelled out in the ordinance and cannot be subjective. Town Clerk Cowdin pointed out that it was put on there as the majority of the other communities do require it.

Town Clerk Cowdin said it is split between the other communities as to whether they are allowed on public property or not. We do not have an opinion one way or the other. Discussion ensued regarding whether they would be allowed to use sidewalks and/or parking spaces. Trustee White wanted to know what would happen if six vendors showed up at once, if they would have to go to a specific place or if they could take all of the parking spaces. Mayor Pro-Tem Dowker wanted to know if there could be something like shared vendor space. Once they are licensed would they need a separate license for events or the Farmer's Market? For special events there is usually assigned places for the vendors. Attorney Bell said that we need to decide how flexible we are going to be and state that in the ordinance. Discussion about whether the license needs to be location specific or not. Sheila stated that she does not see six vendors showing up in town as there are not enough people and that the vendors work it out among themselves as they want their businesses to be profitable. She thinks there are only a few places in town where vendors would want to be. Administrator Hart asked if the vendor should have to come in and apply for every event they wanted to be at. Sheila thinks if you pay once, that should be it for the year. If there is a problem, then let the vendor know and she thinks they would respect that. It comes

down to whether it is a like business or not. Vendors could be at risk buying a license if they have something similar to anything offered in town. Staff's recommendation is to waive fees for special events and let the event police itself. Trustee Shepard feels it would be self-regulating. Mayor Gregg thinks it should be citation enforced rather than application enforced. Sheila does not feel like it will be a problem as vendors do not want to compete with each other. Whitney stated that she organizes who sets up in front of City Star Brewery.

Sherry 535 3<sup>rd</sup> Street (Whistlestop) – she has an issue with “like” business as food is food. Does not want someone selling any kind of food setting up in front of her business – it takes business and parking away from the brick & mortar – Board feels the 100 foot stipulation and the permission required will help with this

Tim Mercer 239 Welch Avenue (Grandpa's Cafe) – why are local businesses not being put in front of the beer place? Mayor Gregg thinks there should be a provision for the fees to be waived if the local brick & mortar establishments want to vend as they have already paid for a license.

Town Clerk Cowdin read the one email we had from the China Restaurant. Clerk mentioned that some of the other communities had separate fees for out of town and local vendors.

Carrie Mercer 239 Welch (Grandpa's Cafe) – says that you can cater as long as you keep the food at the correct temperatures, you can if you have a food license and she feels that the brick & mortar are more committed to the Town

Attorney Bell said he thinks that we need to just put an ordinance out there that attempts to address all of the issues and get some feedback on it. The 100 feet and permission are good, perhaps leave out the location, and should there be a different classification for local businesses. Administrator Hart said we would like to avoid any paperwork we can. Special events would be their own thing. Is the Farmer's Market included in the events as it is through the Chamber? Do they need to have a vendor license? Attorney Bell says it should not be any different than any other event that is not Town sponsored. There is a process for events that goes through the Police Department. We need to do a fee schedule for the event process that has been in place.

Business Development Manager Schneider expressed his thanks for the business involvement.

Town Clerk Cowdin recognized that the area in front of City Star has been the main focus of the conversation tonight, but is not the only place food vendors could be. We also need to separate the door to door vendors and the food vendors. Trustee Shepard wanted to make sure that the current Health Department Certificate must be displayed.

Trustee Alaback thinks this could be a really positive thing for Berthoud and that we don't want to make it too difficult or over-engineer it at this point. It would add to the vibrancy of the Town and events held in Berthoud.

Town Clerk Cowdin thinks we could have the first draft of the ordinance for the meeting July 9<sup>th</sup>.

Sheila said the Health Department requires that the certificate be posted in a conspicuous place and that they are very diligent about monitoring it.

Administrator Hart said the evening was spent with staff updating the community on the water plant and the wastewater plant and BATS. The vendor issue was the biggest topic from the community meeting. Mayor Pro-Tem Dowker added that transparency was another topic. Having everything on-line is helping with that. Administrator Hart said that the host for our website is going out to bid again. Trustee Alaback discussed different options for governments as far as on-line options. The problem is it is costly to tailor the software to what we would like it to do. There are students who volunteer to help municipalities develop technology. Mayor Gregg asked about the Facebook policy that had been discussed quite some time ago. Attorney Bell does not know where it went, but it was never approved.

Mayor Gregg thinks we should revisit community issues every Spring. Trustee Alaback said we should make sure to keep the word out there about what is going on. Trustee Shepard thinks that once a year community meeting is good but should happen closer to the budget season. There was discussion regarding if there would be benefit to having one during the budgeting cycle. Administrator Hart suggested they decide at a later date what they should do going forward as far as the community meetings. Everyone agrees that getting the word out about community events and meetings is important. The more we can inform and engage the community the better it is.

### Reports

Business Development Manager Schneider – Biochar is in operation and currently has 15 employees and have an additional 30 kilns on order, things are going slower than they had hoped but moving forward. Pro Swing Hitting has closed on a property and will be training baseball and softball players – we have been working on this for the last year and they could bring tournaments here if we have fields for them to use. A group of businesses on Mountain Avenue are going to stay open until 7:00 pm on Thursday nights starting July 11. The Chamber has hired a new director who will be starting July 9<sup>th</sup> so we will be hearing more in the near future.

Administrator Hart says there has been discussion for the last year about different events for the community in the downtown area. The area behind the hardware store is a possible place for bands to play or other events. Things are starting to come together down town. Trustee Alaback said the area around the Pioneer Museum is being considered by the Historical Society to develop into a place to have different events.

The Board needs to get together to take a group photo. Ideas for times and places were discussed.

The Comp Plan process has come to closure on key elements and is at the point where they are ready to consult with staff and hope to have a draft of the entire review by mid-July. It will continue to move through the process.

There is a new Utilities Operation Manager starting next week and will be responsible for Water and Wastewater.

There is also a new Parks employee who was chosen from a lot of good candidates. Administrator Hart shared a story of Eileen Jaskowski and the bull snake on her property. We have done a lot with that property and using the water that is available.

Attorney Bell said the immediate issue they are working on is the one with Xcel. Mentioned the CML items are online. We are going to start going through the municipal code a few chapters at a time during the upcoming meetings.

Trustee Shepard had no report.

Trustee White asked for more explanation regarding the Xcel issue. She had no report.

Mayor Pro-Tem Dowker said there is a 287 Corridor meeting this week and an MPO executive meeting to plan for the July 11<sup>th</sup> meeting. The quilt show was amazing with gorgeous quilts. Mayor Gregg is hoping the 287 Corridor will have a meeting when he can attend. She said Trustee Bauer attended the railroad function.

Trustee Jones had no report.

Trustee Alaback said the Berthoud History Day went really well. It is better to have all of the events on one day to draw more people as there is something for everyone. It is nice to celebrate Berthoud and what is going on here. There was a sobering tale at the Tree Committee meeting regarding the Emerald Elm Borer that is an incredibly lethal pest that takes out the dominant tree in Berthoud, the Green Ash. He thinks the code really needs to be updated as far as people that can prune trees.

Mayor Gregg mentioned that he would be missing some of the meetings from mid-July to September.

Trustee Shepard thanked Trustee Alaback for the report and asked about funding requests. July 1<sup>st</sup> is the deadline for anyone wanting to request funding for the budget process.

Mayor Gregg adjourned the meeting at 8:54 PM.



Mayor David Gregg



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Tamiko Brewster, Administrative Clerk