

**BOARD OF TRUSTEES
REGULAR MEETING
March 10, 2015
BOARD ROOM
6:30 P.M.**

Board Members Present: Mayor David Gregg
Mayor Pro Tem Jan Dowker
Trustee Chris Buckridge
Trustee Jennifer Baker
Trustee Suzie White
Trustee Paul Alaback
Trustee Mike Henning

Staff Members Present: Town Administrator Mike Hart
Town Clerk Mary Cowdin
Town Attorney David Bell
Chief Jim Anderson
Accounting Technician Melissa Colucco

Mayor David Gregg led the Pledge of Allegiance.

Citizen Participation

None.

Consent Agenda

Trustee Henning moved to approve the November and December 2014 Bills Allowed and the February 24, 2015 Meeting Minutes with corrections to page 7 under reports. Trustee Buckridge seconded the motion. The motion passed unanimously.

Town Clerk Mary Cowdin introduced Candice Brumit to the board. Candice will be responsible for taking the meeting minutes for the Town Board Meetings and the Planning Commission Meetings.

Water Policy Update

Town Administrator Hart explains that after working on the Town's new raw water dedication policies staff is recommending some minor housekeeping changes to the language in the code. Hart refers the item to Water Attorney Paul Zilis.

Attorney Zilis presented the board with a packet including the proposed ordinance with the changes. The changes include in Paragraph 3 under definitions there has been clarification to 3E change in Land Use, 3L Native Vegetation and 3N Phase. One of the biggest changes is under Paragraph 7E in regard to Cash In Lieu Of Water Dedication for Phases of Development. Staff recommended tying the cash in lieu to what is in the development code for a minor subdivision. The same changes were made in both 7G and 8C in regard to staff wanting to use the correct term of Town Stormwater Discharge Permit instead of using grading/construction permit.

Administrator Hart adds that currently developers apply with the state for the Stormwater Discharge Permit then present that to the town engineer to get a verbal to start doing the dirt-work; we are turning that into a written document.

There were changes in section 7, H-4 and paragraph 8-4. Previously developers provide an irrigation study to the town; the town would take that study to their engineer resulting in the developer paying for two irrigation studies. We have restructured the process so developers give the irrigation plan to town engineer and if there is a difference in numbers the developer can pay for another study. This saves the developer from having to pay for two studies and takes staff out of the equation.

Changes in 7H5 are in regard to doing commercial water dedication on a case by case basis and all commercial uses shall require a minimum of 0.5 SFE's.

Trustee White asked if that is for any commercial use. Attorney Zilis replied that is the intent and the minimum is the 0.5 SFE but each commercial is looked at in case they use more water.

Mayor Pro Tem Dowker asked in relation to the prices being amended at any time by the board, now they are 12.5 and knowing the goal is that we capture cash, what is the instance of the board perusing amended prices? Is that market driven? What is the timeframe for the builder's leeway to build that into their budget and planning development?

Administrator Hart explains that staff put a lot of thought in the 12.5. Staff feels it is a pricing for us to go into the future with unless there's some dramatic change. This number protects us. We do not anticipate changing that number. A number we can change is with permit by permit and we are going after CBT we can change administratively to keep up with the market. Attorney Zilis adds that there has been a lot of analysis with the 12.5 and we are already looking at lower prices but for now we should be good for a while.

Trustee Henning asked as a follow-up to Dowker's point, what is the trigger point to reanalyze the 12.5?

Attorney Zilis explains there is no set price. If there was a big change he would come to the board for recommendations. He suggested doing an annual review.

Administrator Hart suggests we relook during the budget process.

Trustee Henning asked what happens in that case. Would the board then need to adopt an amendment to this ordinance? Administrator Hart confirmed.

Mayor Gregg asked to touch base on some of the analysis used to come up with the 12.5 and .4 SFE.

Attorney Zilis explained that there was very detailed analysis with the raw water master plan completed in December 2013. The .4 SFE is based on actual water uses in Berthoud and assumed system losses to protect the town. With the pricing we looked at the Windy Gap Firming Project, NISP and factored in Handy Shares 12.5 protects the town but is not tied to the CBT. Attorney Zilis feels it is a very fair price and once the town has cash we can look at other pricing.

Mayor Gregg wanted to mention it is instructed to communicate that there has been a lot of analysis behind this. We are on the forefront of innovative sourcing and the realities of actual 2015 usage.

Mayor Pro Tem Dowker moved to approve ordinance #1194 with the revisions. Trustee Buckridge seconded the motion. The motion passed unanimously.

Berthoud Common Update

Town Business Development Manager Walt Elish brings the board up to date with the selling process for Berthoud Common Property. Manager Elish gives a brief history that the town had recently contracted with Loveland Commercial LLC to assist with selling the property. The property has been listed on Xceligent, Costar, and LoopNet. There has been some serious interest in the property. Manager Elish presented the board with a copy of the Listing Brochure.

Town Attorney Bell reminds the board that they indicated the desire to look at offers as they came in. The people making the offers are not authorizing the offers to be made public. If you want to see offers you will have to schedule a few minutes to use executive session.

Manager Elish adds that the intent is to provide the board with the listing offers and you can take into executive session for review.

Mayor Gregg asked by listing at \$700,000 are we obligated to accept an offer at that price or if interest is strong can we accept other offers?

Attorney Bell explains this is an asking price and you will be presented an offer with terms that have not been discussed which will allow you to respond.

Trustee Alaback mentioned that one of the unique selling points to this property is the walking distance to downtown Berthoud. Trustee Alaback did not feel it came through on the listing brochure and suggested adding that benefit.

Manager Elish wanted to mention to the board to look for two press releases that should be in their inboxes.

Larimer County Humane Society Agreement

Chief Anderson explains that the Sheriff's Department has been coming up to a year with the town. The Sheriff's Department took over law enforcement as well as code enforcement and animal control.

Administrator Hart added that this is above and beyond what was expected and that the town should have had a code enforcement officer.

Chief Anderson explained that due to rising cost staff suggested having Larimer Humane Society present to the board what their role is with the Town and to go over the needed services they provide. Chief Anderson introduces Captain Bill Porter to the board.

Captain Bill Porter introduces his roles with the Larimer Humane Society as well as provides the board with a power point presentation of the responsibilities and detailed information on services provided by them. He explains how the services are budgeted and that there is an increase in animals and space needed.

Captain Porter gives specific numbers on adoptions, welfare investigations, stray investigations, sheltering and licensing, vet services and community outreach. Porter also mentions that rabies and distemper is up in the area and Berthoud had a recent case. Explains the service agreement with Berthoud is an as needed service. The cost is \$10 a day for shelter, more for larger animals. They offer 24 hour transportation investigations and consultation. The raised cost is mostly in regard to the transportation, investigation and consultation. Captain Porter explains they have almost doubled mainly because they were losing money by providing those services with the current rates.

Trustee White asked if the owner comes to get an animal that has been picked up and pays the fees does Berthoud still get charged a fee as well. According to section 10F of the contract it does suggest that the humane society will get a fee from the town as well as the owner if the animal is reclaimed.

Captain Porter explains Berthoud would not get charged a fee for impound/shelter if the owner pays the fees. We do not charge the town and the owner also.

Trustee Buckridge suggests an added verbiage that the Town of Berthoud is responsible for fees if the animal is not reclaimed.

Trustee Buckridge asked in regard to the contract with the Sheriff's Department, who is the point of contact? Captain Porter explained the point of contact is the Sheriff's Department. The Sheriff will determine if the Humane Society is needed.

Chief Anderson explained when we have to collect an animal we do everything we can first to find owner, keep them in a heated area and sheltered. The Humane Society is the last resort. We have limited resources to take care of them and are only able to provide service for 24 hours. This is why their services are so important.

Mayor Pro Tem Dowker asked if there is a way to help educate residents and incorporate community information. Dowker also mentioned having a booth at the Berthoud Day Event.

Captain Porter stated it was a great idea. Chief Anderson stated as the dates get closer they can follow up.

Trustee White suggested adding to the newsletter that residents should call the town first if they are missing an animal. It would be beneficial to know that we may have them.

Trustee Henning moved to approve Town Administrator Hart to sign a contract with The Larimer Humane Society. Mayor Pro Tem Dowker seconded the motion. The motion passed unanimously.

Employee Benefit Update

Attorney Bell hands out the current administrator employee contract showing the Town was required to provide health benefits and an H.S.A. account for Town Administrator Hart. The cost of services was roughly \$1500 a month for Hart. When Hart turned 65 years old, he was no longer eligible to receive health insurance through the Town's group policy. In the past we were able to just give a reimbursement and treat that as the same benefit. Under the Affordable Care Act, the Town could not pay tax-free reimbursements for health costs to an individual not participating in an employer sponsored plan. Attorney Bell hired medical benefits specialist Diane Gross to look into and explain obligations under the employment agreement. Gross explained that we could not do what we have done in the past and we had to replace the benefits that were lost. The legal obligation is to replace the benefits lost. Gross suggests that simply modifying the contract to remove the Town's obligation for insurance coverage in return for a monthly taxable payment of \$900.00 would cost the Town less than \$1200. Attorney Bell presents the board with a memo from Diane Gross.

Mayor Pro Tem Dowker reads parts of the memo from Diane Gross, ***"The net result of this contract modification would be a savings to the Town of over \$400.00 per month from what it would have been paying if Administrator Hart had remained on the group plan."*** Mayor Pro Tem Dowker thinks it is important that the public have the comprehension that under the Affordable Care Act we were limited. We are saving money because Hart is downsizing his plan. We are paying less, keeping Hart and we are adhering to the contract with him.

Trustee White started by stating she does not have a problem with Hart having insurance but had some concerns in other areas. She had questions and concerns over the time frame of when Hart turned 65 and when attention was brought to the board. Trustee White also asked who paid for Diane Gross.

Attorney Bell responded that the Town engaged Gross.

Trustee White mentioned her concerns are Attorney Bell has a conflict of interest in representing Hart.

Attorney Bell responded that he represents the Town not Hart. The Town is in default on a contract.

Trustee White mentioned that in the contract the Board deserves the right to amend on an annual basis and felt that if this was brought up sooner it could have been taken care of early. Trustee White feels that the delay caused a year back pay and additional costs to the Town.

Attorney Bell disagrees and stated the year back pay would be the same if they still had been paying into the benefits. We found out in the summer that the issue existed and other staff were trying to work around the issue. Attorney Bell agrees there are some conflicting issues in the contract

Administrator Hart adds that he had no idea when he turned 65 he would be bumped off health insurance and life insurance. So effectively Hart got a pay cut since he had to pay for insurance out of pocket.

Mayor Gregg mentioned that this whole time the Town has not been paying his premiums. He also wanted to thank Hart for all of his patience while this gets resolved.

Trustee White adds that we should be setting precedence for other employees turning 65 with contracts.

Attorney Bell adds that we may want to look at the insurer notifying staff and adding something to the contract in mentioning what happens when a staff member ages out.

Administrator Hart mentions Town Clerk Mary Cowdin is working with Attorney Bell to revise the contract.

Town Clerk Mary Cowdin restates that based on current circumstances the town is looking ahead with our renewals this year for employees in general.

Attorney Bell states that he will write up a resolution changing the contract.

Library Board Appointment

Town Clerk Mary Cowdin presented the Board with a motion to appoint Paul Schumacher to Berthoud Community Library District board. Town Clerk Cowdin explains that board member Lara Bonilla resigned.

Mayor Gregg moves to appoint Paul Schumacher to the Library Board replacing Lara Bonilla for the remainder of her current term. Trustee Baker seconded. The motion passed unanimously.

Reports

Mayor Pro Tem Dowker reported that the Planning Commission meeting is this Thursday. The Dual Impact Grant Hearing will be next week to request funds from DOLA. The MPO meeting was last week.

Trustee Baker reported she attended the Northern I25 Coalition Corridor meeting. The meeting was productive with Berthoud Hill moving forward. The next meeting is April 1, 2015.

Trustee Buckridge reported he attended the Historical Preservation Advisory Meeting. They are making progress on re-working the ordinance, codes and guidelines. We are also working on a guide on how a home becomes designated, preservation, maintain, and information relative to Berthoud. It is also designed to help with forms and research. May is Archeology and Historical Preservation month. The Historic Preservation Committee is looking at an event in Fickel Park. May 16th is the Historical Society Barn Social.

Trustee Alaback reported last Friday was the 2nd Annual Tree Diversity Conference. Next Monday is the *Tree Board meeting*. *Mentions flushing to preserve water heaters might be a good subject for the newsletter.*

Town Administrator Hart reported that there are still openings if any trustees are interested in attending the water conference. The Town will look at finding funds to send two trustees. He reported our next board meeting will be on March 24th and there will be discussion on the Ash trees. Next Wednesday we will be meeting with DOLA to put in for a million dollar grant. We are sending Town Accountant Cindy Leach to a grant funding class. We have a lot of development going on. We are working with Town Planner Sherry Albertson-Clark in getting a news article to do a recap for the public on current development. Last Thursday night the Town got an award from Upstate Colorado for Economic Development.

Town Attorney Bell reports a lot of work on I25 water and sewer planning. He also mentions that there was a citizen petition which was found insufficient. There may be a challenge process. Attorney Bell asks if the board would be willing to authorize Administrator Hart to appoint someone other than Town Clerk Cowdin as a hearing officer since she has already ruled on that once. The Board authorizes Administrator Hart to appoint a representative to address this issue, if needed.


Trustee Henning reported that he attended Upstate Colorado and it was good to represent Berthoud and glad he went.

Trustee White mentioned the need for the annual performance review of the Town Administrator and suggests we get it brought to the Board.

Mayor Gregg wanted to recognize and express appreciation to Town Administrator Hart for the award received from Upstate and all his hard work on the Love's project.

Mayor Gregg adjourned the meeting at 8:36 pm.



Mayor David Gregg

Melissa Colucco
Administrative Court Clerk