

**BOARD OF TRUSTEES  
REGULAR MEETING  
July 28, 2015  
6:30 P.M.**

Board Members Present: Mayor David Gregg  
Trustee Chris Buckridge  
Trustee Jennifer Baker  
Trustee Suzie White  
Trustee Paul Alaback

Absent: Mayor Pro Tem Jan Dowker  
Trustee Mike Henning

Staff Members Present: Town Administrator Mike Hart  
Town Clerk Mary Cowdin  
Town Attorney Greg Bell

Mayor Gregg led the Pledge of Allegiance.

**Citizen Participation**

None.

**Consent Agenda**

Trustee Alaback moved to approve the consent agenda that included the July 14, 2015 Meeting Minutes, June 2015 Bills Allowed and the June 2015 Financial Statements. Trustee Buckridge seconded the motion. The motion passed unanimously.

**Public Hearing-Heritage Ridge Metropolitan District**

Town Attorney Greg Bell explained that this agenda item is a notice for public hearing and has two parts. The first part is to open the applicants request for a proposed Metropolitan District to public hearing. The applicant will have an opportunity to present that request to the board and public comments. The public hearing will be continued if there are any changes to the service plan and there is no action required from the board tonight.

Mayor Gregg opened the item as a public hearing.

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Jim Righheimer, applicant with Arbor Capital for Heritage Ridge explained there is a proposal for a Metro District and amenities for the community known as Heritage Ridge and introduced Ken Mitchell to speak before the Board.

Ken Mitchell provided a presentation to the Board describing the property known as Heritage Ridge. The property is currently in the inclusion zone of the existing Heritage Berthoud Metro District but the proposal is to have its own Metro District. The property is located north of Little Thompson River and West County Road 4E, south of Spartan, west of the BNSF Railroad and east of the existing Hillsdale Sundivision. The first phase west of South 5<sup>th</sup> Street has been engineered, reviewed by Town staff and is currently awaiting approval by the Planning Commission and the Board. There are 57 lots under contract by a reputable regional builder and the applicant is working with custom builders that are local to Berthoud that are interested in purchasing larger estate lots in the community. The Metro District formation is waiting on approval by the Town and a final decision on the water policy. Mr. Mitchell explained the vision for the 420 to 450 lots is a sense of place and community, open space and amenities, coherent and attractive landscape and a variety of lifestyles.

Megan Becher with McGeady Sisneros and representing attorney for the Metro District went over some specifics of the service plan. Some of the items discussed were in regard to proposals and an explanation of tax exempt financing, mill levy limitations, legislative protections and limitations, specific disclosure and filing compliances, Sunshine Laws and Audits, overall debt limitations, maximum Interest rates and underwriter discounts, and annual reporting. Miss Becker mentioned that they are seeking the same mill levy limitations as existing Berthoud districts. Those amounts are 50 mills for debt and 15 mills for operations and only adjustments allowed are for statutory changes. She also explained that there is a time issue and would need to incorporate revisions to the service plan prior to the hearing date of August 26<sup>th</sup>. If there is a delay and approval moves past August they will not be ready for the organizational election November 3<sup>rd</sup>. Improvement Installation commences this fall and vertical construction is anticipated for early spring 2016.

Mayor Gregg opened the item for public comment at 6:56 pm. Seeing no one wishing to speak the item is closed at 6:56 pm.

Attorney Bell suggested a motion to move to public hearing on the 26<sup>th</sup> of August.

**Trustee Buckridge moved to set public hearing for the Heritage Metro District to August 26<sup>th</sup>, 2015. Trustee White seconded the motion. The motion passed unanimously.**

**The previous motion was amended to change the date from August 26<sup>th</sup>, 2015 to August 25<sup>th</sup>, 2015 by Trustee Buckridge and seconded by Trustee White. The motion passed unanimously.**

Attorney Alan Pogue from Icenogle, Seaver and Pogue presented the Board with a brief overview on the description of a special district. Attorney Pogue explained a special district is an independent unit of government formed under the Special District Act. They operate according to the powers and limits established in Title 32 and their service plans. He explained why special districts are created, the process and steps of creating a Metro District and Governance of the District. A list of laws governing district actions was provided in the packet Pogue presented. Pogue also touched briefly on what

districts can do such as construct, operate and maintain public improvements, powers and limits, sources of revenue and district borrowing with tax-exempt bonds, notes and loans.

Mayor Gregg opened the item up for questions from the Board and staff. There was some discussion on breakdowns of total mill levies, clarifications on public improvements, elections, mill levy caps and bonding.

#### **NFRMPO**

Executive Director for the Northern Front Range Metropolitan Planning Organization, Terri Blackmore presented the Board with an update of ground transportation activities in the Front Range. Miss Blackmore touched on the structure of the MPO, budget needs, planning products such as the 2040 Regional Transportation Plan and Transportation Improvement Program which was adopted in March 2015, air quality conformity and the flow of funding for the MPO. She explained how funding has been allocated and gave examples of specific projects that have been fully and partially funded. Miss Blackmore wanted to bring attention to the VanGo Program which offers vanpool services and the online transit guide [noco.findmyride.info](http://noco.findmyride.info).

#### **Water Policy**

Town Administrator Mike Hart gave a brief introduction explaining this is to follow up to the raw water dedication. There was some ambiguity in the code and in regard to verbiage and interpretation. There is a request for a resolution to give direction for recommendations we have and an ordinance to correct requirements for roof top pricing on water dedication.

Deanne Frederickson of AgPROfessionals presented the Board with a consultant report giving recommendations on conflicting language in the Berthoud Code, raw water dedication and establishing common area requirements. Mrs. Frederickson reviewed the current code from the April 28, 2015 meeting and asked to compile a report. The report is specific to common areas in new development areas. She went over some of the current areas of the codes raw water dedication landscape, native vegetation, native landscapes, natural areas, non-irrigated landscapes. Some of the recommendations were having three tiers of raw water dedication for lawn grass, shrub beds and native drought tolerant seed. The third tier would be an addition to the previous policy recommending .8 acre feet for native seed. There should be no raw water dedication for temporary irrigation or non-irrigated landscape. Mrs. Frederickson touched on raw water dedication or cash in lieu costs comparing the C-BT water to Berthoud siting that Berthoud costs are lower. She also gave examples to reword the code in the areas that had potential conflicting language.

Mayor Gregg opened the item to public comment at 8:44 pm.

Steve Schmidt current developer for Rose Farms spoke about being realistic with water and usage restrictions and gave examples of large water amounts used for landscaping. Mr. Schmidt felt that there is conflict with the calculations in the presented report. He does not agree with the dedication amounts or that all open space needs to be irrigated.

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John Turner of Windsor, Colorado gave examples of some of his other communities that are not having the same issues as Berthoud in regard to irrigation and felt that this is a developer issue and that the policy could generate results to avoid more open space because of cost. There are areas mentioned that do not require additional watering and felt the policy will create less open space.

Scott Sarbaugh of 320 Pearl Street mentioned that there are areas that do not need irrigation and there is conflict with the Comp Plans goal for water conservation. Mr. Sarbaugh felt the revisions will discourage development and will be disturbing areas and creating wet lands and asked to look ahead on the end result for dedication requirements.

Bill Zeck started by commending the Board with what they have done with the water policy so far. Mr. Zeck disagreed with some of the analysis of the report in regard to irrigation and numbers. The burden is on the developer to establish the approved landscape plans and encouraged the Board to step back until they need to get involved with caution of arbitrary numbers.

Jim Righeimer, Costa Mesa, California commended the changes with the water policy so far. Mr. Righeimer mentioned that it seems we are working around the edges but some of the minor disagreements are with areas that do not need irrigation with open space and felt the .8 numbers work, bonding, using the Metro or HOA to make sure the requirements to the landscape plan are followed, and average out numbers to avoid big fees.

Jim Birdsall, 444 Mountain Avenue, Berthoud commended staff with the work they have done and that the report is a great start. Mr. Birdsall had some disagreement on what is considered natural or native open area and felt there are some areas that do not need irrigation. He encouraged the consideration to look at specific areas or on a case by case basis for required irrigation. Putting the burden on the developer is a good recommendation and with open space an HOA and Metro District should be required to maintain and the Town is not required to.

Town Water Attorney Paul Zilis explained that they worked very hard on the water policy and that they lowered the cost a great deal. Attorney Zilis explained that they need to move forward with Deanne's recommendations but give staff the direction to revise the code with the recommendations so they can move forward with the development that is pending now.

Town Attorney Bell added that this is not a finished work and agrees on some of the recommendations brought up by the developers. One of the changes in the ordinance says "appropriate" should be determined by Town staff. He explained that in fairness no rule catches all situations and they do need to go back with some of the recommendations. In order to function right now for developments waiting, staff needs some direction and approving the resolution allowing staff to implement Mrs. Frederickson's policies as we have now knowing that if someone is in the position to wait we will probably have a lot more refinements in the future.

Trustee Alaback suggested some clarification or to modify the definition on natural areas. He also suggested adding definitions for native plants, native vegetation and native seed area for clarification.

Trustee White mentioned that all the developers shared the same concerns when it came to land that does not need watered and did not agree with the wording in regard to anything being disturbed having to be brought back to natural state.

Administrator Hart clarified that the wording to put back into natural state was in regard to accountability and mentioned that some authority is granted to staff so that they can look at these items from case to case.

Trustee White agreed that a lot of the items are black and white and there are some items that would need to be changed. She also wanted to address a point brought up by one of the developers of looking at taking off the 12,000 cap.

Administrator Hart reminded the Board that when the policy was first brought to them, staff was not recommending a cap at 12,000. Staff does not have a problem revisiting that and taking a look at the average.

Attorney Zilis explained we can have some standards in place to give staff discretion to look at these different scenarios but keep things moving by approving Deanne's recommendation of .8 acre feet which is the baseline. He also added to keep in mind the .8 acre feet is already a saving of 16,000 an acre.

Mayor Gregg added that one of the things we have been striving for is simplicity in the code. Mayor Gregg recommended moving forward with the ordinance and resolutions presented and accept the changes to the language that clear up conflicts, accept the new category of the .8 acre feet and giving staff the latitude to look at special circumstances. He also suggested not putting the Town in the position of calculating the math on collecting the water needed and instead to have the language to monitor that it is established and also to act on broadening native state clarifications.

**Mayor Gregg moved to approve the ordinance #1202 before us with modifications being to change the wording that is referred in part 2 from resolution to motion and not be in emergency status. Trustee Buckridge seconded the motion. The motion passed unanimously.**

**Trustee White moved to authorize staff to rely on Consultant Frederickson's report in evaluating and acting on plans subject to their own discretion for areas where they believe it is not clear. Trustee Buckridge seconded the motion. The motion passed unanimously.**

#### **Emergency Operations Plan IGA**

Chief Anderson explained that the Berthoud Fire Department as well as the Larimer County Sherriff office have been working on an Emergency Operations plan. Chief Anderson introduced Justin Whitesell, the Emergency Operations Manager for the Larimer County Sheriff's Office.

Mr. Whitesell explained that the plan allows for mutual aid between the state and county if there is a significant situation that threatens public health or public safety including disasters, state of emergency or local emergency. This plan will help expedite getting funds from the state to the Town.

Chief Anderson added that this plan helps with bringing in the recourses and state funding when the county cannot.

**Signature Authorization**

Town Clerk Mary Cowdin presented the Board with a request to allow Senior Accountant Cindy Leach authority to sign on checks up to \$1500. This will assist staff with getting smaller checks signed.

**Trustee Buckridge moved to authorize the Senior Accountant to sign checks up to \$1500, with the current requirements still in place. Trustee Baker seconded the motion. The motion passed unanimously.**

**Reports**

Town Clerk Cowdin reported that staff received notification from CML that it is time to reappoint or appoint someone to the policy committee.

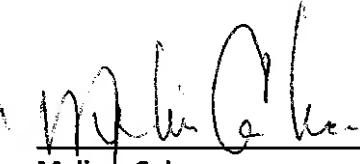
Town Administrator Hart reported that the strategic planning session is scheduled for 6:00 pm on August 11, 2015 at Town Hall. Road construction has started on Massachusetts Avenue. The I25 and 56 sewer plant funds have been deposited. Fischer is the winning bidder for the I25 and 56 sewer project.

Trustee White reported that there was some discussion with Johnny Olson regarding special presidential initiative and had some good ideas on affordable housing that Berthoud may qualify for. Berthoud has made it to the second phase.

Trustee Baker will not be able to attend the Northern I25 Coalition on August 5, 2015 and needs someone from Berthoud to attend. Trustee Henning, the alternate, would be unable to attend.

**Mayor Gregg adjourned the meeting at 10:01 pm.**

  
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**Mayor David Gregg**

  
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**Melissa Colucco  
Administrative Court Clerk**