

**BOARD OF TRUSTEES
REGULAR MEETING
JANUARY 22, 2013
BOARD ROOM
7:00 P.M.**

Board Members Present:	Mayor Pro Tem Jan Dowker Trustee Dick Shepard Trustee Paul Alaback Trustee Thomas Jones Trustee John Bauer Trustee Suzie White
Board Members Absent:	Mayor David Gregg
Staff Members Present:	Town Administrator Mike Hart Engineer Stephanie Brothers Planner Tim Katers Town Clerk Mary Cowdin Attorney Greg Bell Attorney Bruce Fickel Administrative Clerk Jory Haslett Economic Development Director Ron Schneider

Mayor Pro Tem Jan Dowker led the Pledge of Allegiance.

Executive Session

Trustee Bauer moved to adjourn the meeting to Executive Session to discuss property negotiations. Trustee Shepard seconded the motion. The motion passed unanimously.

Mayor Pro Tem Dowker adjourned the meeting to Executive Session at 7:03 PM. Mayor Pro Tem Dowker reconvened the meeting at 7:24 PM.

Citizen Participation

None.

Consent Agenda

Shepard moved to approve the Consent Agenda with amended minutes. Trustee Bauer seconded the motion. The motion passed unanimously.

Public Hearing – BATS Change of Schedule and Service Area

Mayor Pro Tem Dowker opened the public hearing at 7:26 PM.

Engineer Brothers presented the proposed changes to the BATS program. The program lost funding for the rural services and would encounter an increase in funding on the part of the Town for 2013.

Engineer Brothers reviewed the proposed schedule and service area changes. All rides will originate in Berthoud during weekdays only, with scheduled trips to Loveland and Longmont. These changes will eliminate the need for all but two drivers. The changes will become effective March 1, 2013.

Kayla addressed the Board. She lives out of town and needs to have the BATS bus if she would like to have a job in Berthoud in the future. She stated that without BATS people with disabilities cannot get to town for appointments and activities.

Marisa Holland, from Thompson School District, teaches life skills to students with disabilities. She is concerned about rural residents who aren't able to arrange transportation into Town to use the BATS bus to ride to Loveland or Longmont.

Nancy Weber, Berthoud resident, stated that the Town's seniors are concerned that the service will eventually be eliminated. She stated that seniors need to go to Loveland and Longmont for services that Berthoud can't provide. She asked that the Board please reconsider the discontinued area; however, she feels that the new hours are ok.

Kevin Hastings addressed the Board and stated that he has two special needs children who have jobs in Loveland and Longmont. Currently, the BATS system is the only way that they can get to their jobs.

Ruth Fletcher-Carter, of 1028 4th Street, addressed the Board and stated that BATS served her husband with the on-demand service for his transportation to physical therapy appointments. She stated that they would have paid more for the on-demand service if necessary.

Engineer Brother stated that the cost to the Town of a BATS trip door to door is \$22.00.

Sara Bomberger, addressed the Board and stated that she has a middle school age daughter who attends a charter school in Longmont that uses BATS. To her, it does not make sense to cut out the full-fare service riders by eliminating the afternoon trips.

Administrator Hart asked that citizens interested in forming an independent committee to explore options for the BATS program to leave their contact information with Engineer Brothers to set up a meeting.

Trustee Bauer stated that there isn't any transportation system anywhere whose program is completely funded by ridership fares. The North Front Range Transit Committee is coming forth with a plan, however it may not meet all of Berthoud needs, but it would be a start. He stated that there is a fixed cost for operating the buses, not just during transit times. He suggested rural citizens contact their county commissioners regarding funding that comes through the county.

Trustee Alaback stated that it seems like there may be enough interest from the rural community to implement a mill levy to support the rural system. He is glad that there will be a committee formed to discuss the options.

Trustee Shepard stated the BATS program has always been a great amenity to the Town. He has gone through the budget process since 2008 and has seen in the past that the program has been overextended in order to provide the best service. He echoed Trustee Bauer's suggestion for interested citizens to reach out to the county commissioners.

Trustee White stated that she sympathizes with the needs of the people who utilize BATS, but unfortunately there isn't money in the budget to fund the program at its current level. She emphasized that the Board wants to keep the BATS program and encouraged the community to come up with ideas.

Trustee Jones asked Attorney Bell what would be required to create a rural transportation district. Attorney Bell replied that forming the district isn't the biggest issue, rather it is gathering enough votes in the area to give the district the taxation authority it would need.

Administrator Hart stated that there is a potential way to consolidate the proposed recreation district with the transportation district ballot initiatives in order to save a little money. The Town then could take a supporting role in the creation of both districts.

Trustee Bauer moved to approve the changes to the service area and service hours as presented. Trustee Shepard seconded the motion. The motion passed unanimously.

Trustee White moved to adjourn to Executive Session to receive legal advice for a specific legal matter. Trustee Shepard seconded the motion. The motion passed unanimously.

Mayor Pro Tem Dowker adjourned the meeting to Executive Session at 8:42 PM. Mayor Pro Tem reconvened the meeting at 9:05 PM.

Special Use Review – 1015 2nd Street

Mayor Pro Tem Dowker opened a public hearing for a Use by Special Review request before the Board at 9:06 PM.

Planner Katers presented the Use by Special Review requested by Herb's Medicinals. There is a land use portion of medical marijuana approval process and a licensing phase. The issue before the Board is the land use portion of the process.

Herb's is located at 1015 2nd Street and there are no changes proposed with the exception of signage. There were very few responses received from the notices sent.

There is an existing approved Use by Special Review at Natural Alternatives to Health at 1090 2nd Street, which is currently in the licensing process and is not open at this time. Natural Alternatives to Health is located within the 1,000-foot setback distance from Herb's Medicinals. Currently, due to the recent municipal and statewide elections regarding marijuana, is not known whether two facilities of this type are appropriate in the Town of Berthoud.

The facility meets all the other requirements of the Berthoud Development Code: Medical Marijuana.

The Planning Commission recommended at the December 13, 2012 meeting that the Board approve the Use by Special Review application with a waiver to the 1,000-foot distance regulation.

Meg Sanders, of H & J Services, dba Herb's Medicinals, addressed the Board. In the spirit of free market and commerce, she believes that both marijuana businesses could exist. She respectfully requested that the Board approve the waiver.

Tim Devlin, of Feldman Nagel, an attorney representing Herb's Medicinals addressed the Board and stated that Herb's is requesting a waiver because it is speculative whether or not the Natural Alternatives to Health will open.

Bill Gillmore, of 8th Street, addressed the Board and stated that it concerns him that a perfectly legal business could be shut down because of an unknown.

Trustee Bauer moved to approve a Use by Special Review application for H & J Services, dba Herb's Medicinals at 1015 – 1017 2nd Street with a waiver to the 1,000-foot distance regulation between medical marijuana facilities with the condition that H & J Services, dba Herb's Medicinals diligently prosecute an application for a municipal medical marijuana license and not abandon said application. If a municipal medical marijuana license is not approved within 90 days, the waiver shall be rescinded.

The Use by Special Review is based upon the following criteria:

1. That the waiver will not alter the essential character of the neighborhood or district in which the property is located, nor diminish the value, use or enjoyment of adjacent property;
2. That the waiver is the minimum waiver of the applicable Code provision that will afford relief and is the least modification possible of the Code provisions which are in question; and
3. That such practical difficulties or unnecessary hardship have not been created by the applicant.

Trustee Shepard seconded the motion. The motion passed unanimously.

Administrator Hart directed staff to come back to the Board with a changes to the code that will address this issue in future instances.

Ordinance: Development Code Notice Timing

Planner Katers presented the proposed change to the notification timing for development or zoning projects. The change will increase the current notice period of 5 days to 15 days, however, annexations would stay at 30 days.

Trustee Bauer moved to approve Ordinance 1151. Trustee White seconded the motion. The motion passed unanimously.

Habitat for Humanity Fee Waiver Request

Planner Katers presented the request from Habitat for Humanity for a fee waiver request for the building permit at 1700 N. 4th Street. The request asks for a waiver of in the amount of \$14,987.45. Wastewater and water fees will not be waived.

Trustee Shepard moved to approve the waiver of all fees for the Berthoud Habitat for Humanity home being constructed at 1700 N. 4th Street, except for \$11,755.00 in fees related to the water and wastewater utility systems. Trustee Bauer seconded the motion. The motion passed unanimously.

Designate Agenda Posting Location

Clerk Cowdin requested that the Board designate the official location of all Board meeting agendas for 2013 as the bulletin board at the entrance of Town Hall.

Trustee Jones moved that the bulletin board at the entrance to Town Hall be designated as the official agenda posting location for 2013. Trustee White seconded the motion. The motion passed unanimously.

Reports

Planner Katers notified the Trustees that they can receive a free registration to the Saving Places Conference if they are interested in attending.

Trustee Alaback reported on the large land donation Larimer County is negotiating to receive. The property has been an operating cattle ranch since the mid-1800s.

Trustee Bauer reported that he attended North Front Range Transit Vision meeting. He also attended the Chamber of Commerce installation dinner, which was well attended.

Trustee Jones noted that the Moon Theater has a production this and next weekend at the Rialto in Loveland.

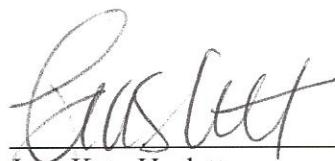
Trustee White also attended and enjoyed the Chamber installation dinner.

Trustee Shepard reported that he also attended the Chamber installation dinner.

Mayor Pro Tem Dowker attended the 287 Corridor meeting with Administrator Hart as well as the Chamber installation dinner. She also reported that she was elected Vice Chair of the NFRMPO.

Mayor Pro Tem Dowker adjourned the meeting at 10:05 PM



Mayor Pro Tem Jan Dowker

Jory Kate Haslett
Administrative Clerk