

**Berthoud Fire Protection District
Board of Directors
Special Meeting Minutes**

Date: Tuesday, June 1, 2021
Location: 248 Welch Ave., Berthoud, CO 80513
Time: 6:00 p.m.
Meeting Organizer: Jill Wilson (970) 532 – 2264

Agenda Items

Call to Order / Roll Call

Board President, Dan Hershman, called the meeting to order at 6:00 p.m. Directors present were President Dan Hershman, Vice-President Michael Cook, Secretary Gary Maggi, Director Eric Ryplewski and Director Dave Shipley.

Others in Attendance: Fire Chief Steve Charles and Chief of Staff Jill Wilson.

Pledge of Allegiance

Review of the Agenda

President Dan Hershman noted that an email had been received by David Gregg of Mission Homes on June 1, 2021, which contents would be entered into the record. Motion by President Dan Hershman to accept the agenda as presented, seconded by Director Eric Ryplewski.

Public Comment

Email from David Gregg, Founder, Mission Homes Colorado, on June 1, 2021:

The approved IGA with Berthoud reads *“The District Impact Fee shall be imposed on all new development for which a **development application** is submitted to the town on or after June 7, 2018.”* The development application for PrairieStar was submitted years prior to 2018.

In a written communication, Berthoud Planning Director Curt Freese (May 11, 2018) stated that he interprets “development application” to be equivalent to “development approval”. Chief Charles has concurred with this interpretation in an email on May 26, 2021.

“Development Approval” is a term not found in the IGA.

Flatly, development application is not equivalent to development approval. These are two very distinct and very different steps in the development entitlement process. The town, in our opinion, is not “interpreting” the IGA. Rather, the term “development application” found in the IGA, the governing document, is being redefined and this is improper.

You can’t interpret 2 to be equivalent to 4. You can’t interpret November to be equivalent to April. And you can’t interpret “development approval” to be equivalent to “development application”. They are objectively not the same thing.

We ask that the actual wording in the IGA be honored as written, not redefined to accelerate the collection of a tax on new construction.

Board of Director Action

Final Determination on Findings Related to New Development Impact Fees

Stephen Charles, Fire Chief

Impact Fee Findings for New Development
--

Chief Charles noted an email was sent to David Gregg of Mission Homes on May 26, 2021 outlining how impact fees were established for the District. He referenced a notice published by the Town of Berthoud on May 11, 2018, which in part stated that <i>‘The Town regards development approval as any development which has received Final Plat (ie lots have been platted and recorded) or site plan approval by the Town. In addition, for any Final Plat/Site Plan applied for prior to June 9, 2018 whether it has received approval or not, the Town will also not collect the additional fees.’</i> Chief Charles noted that PrairieStar Filing 4 was recorded prior to June 9, 2018; therefore, impact fees were not collected. However, two filings in
--

PrairieStar 5th filing (2nd and 3rd addition) were recorded after that date and were subject to impact fees.

President Dan Hershman noted that based on the Board of Director minutes from July 2018, it was the intent that fees would be based on final plat not on an application submittal.

Vice-President Mike Cook remarked that the Town had been implementing the fees as intended.

Director Eric Ryplewski stated that state statute authorized the District to establish the impact fee, and the resolution passed by the Board approved the collection of impact fees. The purpose of the IGA with the Town was only to communicate the District's intention. It was not the governing document. He also mentioned that the Town was required to pass an ordinance per state statute to collect the fees, which they did; however, the IGA had no authority on how to collect the fee.

President Dan Hershman reiterated that it was the Board's intent to collect the fees based on plat approval. The IGA was just an instrument to do so. The Town had been collecting the fee as intended. He remarked that the IGA may need to be amended to clarify the language. He also noted that the District's legal counsel had provided direction in 2018 stating that 'development phases having been platted prior to June 9, 2018 were not subject to impact fees.'

Motion by Director Eric Ryplewski to find that the resolution passed by the Board on March 30, 2018 still applied and had clear intent, which the Town of Berthoud Ordinance to collect impact fees supports. In addition, the IGA with the Town of Berthoud supports the collection of impact fees from the District.

Vice-President Mike Cook agreed that the resolution met the intent, and the District would work with the Town to clarify the IGA language.

President Dan Hershman amended the Motion to add that the July 17, 2018 Board minutes clearly stipulated the intent of the Board to collect the impact fees.

Vice-President Mike Cook seconded the Motion and amended Motion.

Secretary Gary Maggi abstained.

Adjournment

Board President, Dan Hershman, called for a motion to adjourn at 6:36 p.m. Vice-President Mike Cook made the motion and Director Dave Shipley seconded the motion. The motion carried.

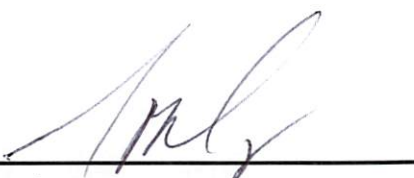
Signature Page

X 

Dan Hershman
President

X 

Mike Cook
Vice-President

X 

Gary Maqqi
Secretary

X 

Eric Ryplewski
Director

X 

Dave Shipley
Director