

**TOWN OF BRECKENRIDGE  
TOWN COUNCIL REGULAR MEETING  
TUESDAY, August 25, 2009  
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***CALL TO ORDER and ROLL CALL***

Mayor Warner called the August 25, 2009 Town Council Meeting to order at 7:31 p.m. The following members answered roll call: Ms. McAtamney, Mr. Joyce, Mr. Bergeron, Mr. Millisor, Mr. Rossi, Mr. Mamula and Mayor Warner.

***APPROVAL OF MINUTES – August 11, 2009 Regular Meeting***

Mayor Warner commented that on Pg 80 line #5, “residents” was spelled wrong. With that one change to the minutes, Mayor Warner declared the minutes were approved.

***APPROVAL OF AGENDA***

Town Manager commented that there were no changes to the agenda.

***COMMUNICATIONS TO COUNCIL***

A. Citizen’s Comments - (Non-Agenda Items ONLY; 3 minute limit please)-

1. Peter Kuhn- Medical Marijuana Dispensary- If a ledger is used to identify quantities of the patients it could breach patient confidentiality. Having the dispensary on the second floor does not allow for handicap accessibility. Would be set up like a doctors office, show record, valid certificate and they could come in to dispense the marijuana. Asked if they were near a residence if they could have permission from the owners to be at that location.
2. Tim Casey- Met with some folks up at the Nordic Center today. Breckenridge Lands fenced their property line at the entrance to the Nordic Center. Need to escalate the discussion of the Nature Nordic Center. May want to consider discussion with the Dayton’s. Things are changing dramatically, including cutting 400 trees. Council had some discussion on this issue.
3. Richard Himmelstein- Against moving satellite post office. He does not believe it will meet ADA requirements. He requested a resolution against the relocation of the post office. The current satellite post office is the only location with a drive-up drop off. Mayor Warner explained where the Town is at with our work on this effort. The Council agreed to do a resolution.
4. Dell Bush- Thanked the Council for the work they do. He reiterated what Richard Himmelstein said about the Post Office.
5. Emily Tracy- Thanked Council for their consideration. Though this is a postal issue it is also a traffic issues. Worth asking USPS how does it meet ADA and ABA requirements? Hopes there is a good dialogue. What other options did they look at?
6. Mike Kirkbride- Encouraged the Town to look at easements strips that maybe could be used for drop boxes. Possibly bringing a solution to them. Be proactive to see what we can work with.
7. Dee Kirkbride- Came out to support Council in their efforts against the USPS relocation. No drop off locations.
8. Scott Yule- Picked up where Tim Casey left off in regard to the Nordic Center. He requested some involvement. They would like to provide input and be involved in any decisions.
9. Brian Kuhn- offered to do a walk-through of what a medical marijuana dispensary is like. He gave some suggestions of where to see one and offered to further educate them. Mayor Warner commented that there will be a first reading at the September 8<sup>th</sup> meeting.

***CONTINUED BUSINESS***

A. ***SECOND READING OF COUNCIL BILL, SERIES 2009 - PUBLIC HEARINGS\*\****

**1. Council Bill No.28, Series 2009- AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF BRECKENRIDGE AT A SPECIAL TOWN ELECTION TO BE HELD ON NOVEMBER 3, 2009 THE QUESTION OF THE ADOPTION OR REJECTION OF A**

PROPOSED INITIATED ORDINANCE, TO BE EFFECTIVE JANUARY 1, 2010, REMOVING ALL CRIMINAL PENALTIES UNDER TOWN LAW FOR THE POSSESSION OF ONE OUNCE OR LESS OF MARIJUANA AND RELATED PARAPHERNALIA BY PERSONS TWENTY ONE YEARS OF AGE OR OLDER; SETTING FORTH THE BALLOT TITLE; AND PROVIDING FOR THE CONDUCT OF THE ELECTION

Tim Berry commented that a group of citizens have created and submitted a petition to decriminalize less than an ounce of marijuana. The ordinance would call a special election on November 3<sup>rd</sup>, 2009 to allow the Town voters to decide. There were no changes proposed to ordinance from first reading.

Mayor Warner asked for public comment. There was none. He closed the public hearing.

Mr. Bergeron moved to approve Council Bill No. 28, Series 2009. Ms. McAtamney seconded the motion. The motion passed 7-0.

### ***NEW BUSINESS***

#### ***A. FIRST READING OF COUNCIL BILL, SERIES 2009-***

There were no First Readings.

#### ***B. RESOLUTIONS, SERIES 2009 –***

##### **1. A RESOLUTION APPROVING AN AMENDED ANNEXATION AGREEMENT WITH MAGGIE PLACER, LLC, a Colorado limited liability company (Maggie Placer Annexation)**

Tim Berry commented that the resolution would approve an Annexation Agreement for the 1.82 acre Maggie Placer parcel. An Annexation Ordinance was approved by the Town in October of 2007 and this property was annexed subject to several conditions established in an Annexation Agreement recorded October 19, 2007. The property owner attempted to work thru the planning process to obtain a development permit, but several concerns were raised in regard to scale, mass, site disturbance, and access. It wasn't until last week (August 18, 2009) that the Planning Commission approved a development plan for the property.

The approved plan is less intensive than the plan originally contemplated during the 2007 annexation process and many of the specific components of the plan have changed. The changes were discussed with the Council on June 9, 2009 and were acceptable to Council and to staff. Therefore, with the Planning Commission's review now complete, we have prepared a modified Annexation Agreement to replace the original Agreement. The modified Annexation Agreement addresses the revisions to the plan/project,

Mayor Warner asked for public comment. There was none. He closed the public hearing.

Mr. Mamula moved to approve the Resolution, Series 2009. Mr. Millisor seconded the motion. The motion passed 7-0.

##### **2. A RESOLUTION ADOPTING “ANNEX C” TO THE SUMMIT COUNTY MULTI-HAZARD MITIGATION PLAN**

Tim Berry commented that The 30 member Summit County Hazard Mitigation Planning Committee, comprised of representatives from each municipality in Summit County, Summit County Government, local fire districts, metropolitan districts and assisted by paid consultants from AMEC Earth and Environmental Services, produced the Summit County Multi-Hazard Mitigation Plan. The purpose of the plan is to reduce or eliminate long-term risk from natural hazards to people and property in Summit County. The planning process started with a county-wide risk assessment and culminated by identifying goals and objectives for reducing risks. The Plan has been approved by FEMA and adopted by the Summit County Government. Each municipality in the county must adopt the plan in order for that municipality to qualify for future FEMA risk mitigation grant funding. The resolution would adopt the Summit County Hazard Mitigation Plan.

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Tim Berry commented that the motion needed to be made with the deletion of the second paragraph on pg 110, and the 1<sup>st</sup> paragraph on page 115 under “Ideas for Implementation.

Mayor Warner asked for public comment. There was none. He closed the public hearing.

Mr. Millisor moved to approve the Resolution, Series 2009 as presented in packet with the deletion of the second paragraph on pg 110, and the 1<sup>st</sup> paragraph on page 115 under “Ideas for Implementation.” Mr. Mamula seconded the motion. The motion passed 7-0.

**C. OTHER –**

**1. Liquor Licensing Authority Appointments-**

Mr. Mamula moved that the Town Council appoint J.B. Katz, Turk Montepare and Bill Tatro to four-year terms on the Breckenridge Liquor Licensing Authority. Mr. Rossi seconded the motion. The motion passed 7-0.

**PLANNING MATTERS**

**A. Planning Commission Decisions of August 18, 2009**

With no requests for call ups Mayor Warner declared the Planning Commission decisions of the August 18, 2009 meeting would stand as presented.

**B. Report of Planning Commission Liaison (Mr. Rossi)-**

Mr. Rossi commented that he did not get a phonecall about when he needed to be there. Chris Neubecker apologized. Council and staff agreed that the work session should be moved to the beginning of the meeting.

**C. THE VALETTE RESIDENCE CALL UP HEARING**

Mayor Warner stated “This is a call up hearing with respect to Class C Major Development Permit Application number PC2009034 which is a request to extend the previously issued development permit, and the vested property rights associated with the permit, for the Valette residence at 301 South French Street within the Town of Breckenridge. The Applicant is Dr. Brett Valette. At its meeting on August 11<sup>th</sup> the Town Council called up the Planning Commission’s decision on this Application. Pursuant to Section 9-1-18-5 of the Town’s Development Code, this is a de novo hearing at which the Town Council will make its own decision with respect to the Application.”

Mayor Warner asked Chris Neubecker: “It is my understanding that because this is a Class C development permit application, no special notice of this hearing is required to be given. Is that correct?” Chris Neubecker stated that it was correct. The applicant was notified and was unable to attend since he had a parent-teacher conference. He did not ask for a continuance.

Mayor Warner stated that “Pages 124-147, inclusive, of the Council’s Agenda Packet for this meeting is made a part of the record of these proceedings.”

Mayor Warner stated: “The following general procedures will be followed by the Council in connection with this hearing:

First, Chris Neubecker of the Town’s Department of Community Development will introduce the Application.

Next, the Applicant will be given an opportunity to present any evidence that he may wish to offer in support of the Application. Again, the applicant was not present.

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Then, any member of the public who wants to speak either in favor of or in opposition to the Application will be permitted to do so. Questioning of the public witnesses by the Staff, Applicant and Council will also be permitted.

Finally, the parties will be given an opportunity to present any rebuttal evidence that they desire to offer.

Members of the Council will be permitted to ask questions of any person who testifies. This will occur after the testimony has been offered and any questioning of the witness by the Staff and the Applicant has occurred. If there are further questions which the Applicant has as a result of any of Council's questions the Applicant will be permitted to ask those questions.

After all of the testimony and the questioning of the witnesses has been concluded, the hearing will be closed. It will then be time for Town Council to discuss this matter and to render its decision."

Mayor Warner stated: "For the record, I want to state that the Town Attorney Tim Berry will not be involved in the presentation of any evidence in this matter, and will remain available to advise the Town Council."

Mayor Warner stated: "We are making a record of this hearing. It will be necessary for any person who testifies to identify himself or herself for the record, and to speak slowly and clearly so that the tape can pick up the testimony."

Mayor Warner stated: "Are there any questions about the procedures to be followed?"

Mayor Warner stated: "It is now time for Mr. Neubecker to introduce the Application".

At this point, had the applicant been present they could have presented their evidence.

Mayor Warner stated: "Is there any member of the public who wants to speak either in favor of or in opposition to the Application?" There was none.

Mayor Warner stated: "Is there any further evidence to be offered in this matter?"

Mayor Warner stated: Does any member of the Council have any questions or desire any additional information from anyone who has spoken or who has presented information during this hearing?

Mayor Warner stated: "The call up hearing in this matter is now closed."

There was council discussion.

Mayor Warner stated: "Is there a motion?"

Mr. Mamula moved that the Town Council deny Application No. PC2009034 concerning the extension of the development permit and the associated vested property rights for the Valette Residence with the denial findings set forth on pages 151-153, inclusive, of tonight's Town Council Agenda Packet. Mr. Bergeron seconded the motion. The motion passed 6-2 with Mr. Millisor and Mr. Joyce objecting.

Mayor Warner stated "The Application is approved with the findings and conditions described in the motion.

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Mayor Warner stated: The record of this proceeding shall consist of: (i) pages 124-147, inclusive, of the Council's Agenda Packet for this meeting; (ii) all documents admitted into evidence by the Council; (iii) all documents offered into evidence at the hearing, but not admitted; (iv) copies of the applicable provisions of the Town's Development Code and other applicable Town ordinances; (v) a transcript of the public hearing; and (vi) such other documents as may properly be included in the record.

Mayor Warner stated: "Is there anything further on this matter?" There was nothing further. "That concludes this hearing. Thank you."

***REPORT OF TOWN MANAGER AND STAFF***

***REPORT OF MAYOR AND COUNCILMEMBERS-*** Reports were done at the work session

- A. **CAST/MMC** (Mayor Warner) –
- B. **Breckenridge Open Space Advisory Commission** (Mr. Joyce) –
- C. **Breckenridge Resort Chamber** (Ms. McAtamney) –
- D. **Summit Combined Housing Authority** (Mr. Millisor) –
- E. **Breckenridge Heritage Alliance** (Mr. Bergeron)-
- F. **Sustainability** (Mr. Millisor) –

***OTHER MATTERS***

***SCHEDULED MEETINGS***

***ADJOURNMENT***

With no further business to discuss, the meeting adjourned at 9:01p.m.

**ATTEST:**

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Mary Jean Loufek, CMC, Town Clerk

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John Warner, Mayor