

CALL TO ORDER and ROLL CALL

Mayor Warner called the September 22, 2009 Town Council Meeting to order at 7:40 p.m. The following members answered roll call: Ms. McAtamney, Mr. Joyce, Mr. Millisor, Mr. Rossi, Mr. Mamula and Mayor Warner. Mr. Bergeron was absent.

APPROVAL OF MINUTES – September 8, 2009 Regular Meeting

Mayor Warner commented that on page 53 it should say “quit claim”, not “quick claim.” Mr. Rossi commented that on Page 51 the wording was not accurate. The recording will be reviewed for the correct verbiage. With those changes, Mayor Warner declared the minutes were approved.

APPROVAL OF AGENDA

Town Manager, Tim Gagen, commented that they will be adding an Executive Session under Other Matters.

COMMUNICATIONS TO COUNCIL

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

- 1) David Michael- Entrada’s attorney- Apologized on behalf of Entrada. They will not be able to comply with obligations made in the annexation agreement. They will not be able to comply with the Town’s requests and that is not to say that the requests are unreasonable. He commended the staff for their effort and work on this project. They have challenges with their easement with Summit Ridge Center which caused them to not be able to record the plat and close on the property. They wanted the Council to hear it directly from them. They feel they have a valid easement and have sued Summit Ridge Easement but that will not prevent them from going into foreclosure. David went through the details and history. They will come back with an application without the access point. Does the Town want it developed the way they agreed to or not developed at all. They did not say the access point was not important but questioned whether it was necessary.
- 2) 2) Mike Raitman- Owns a gallery in Towne Square Mall. Concerned about the “Get Hi Gallery.” This will be the third shop of this nature within a one block vicinity. Offended by the name and the fact that they plan to have adult content as well. Not happy to see this on Main Street. Why is this happening and why are we dragging our Main Street businesses into the sewer. Tim Gagen commented that we will do a re-review of the business and they will certainly look at it.
- 3) Rebecca Barfoot, from Durango, CO. She is the artist in residence at the Tin Shop. She thanked Council for the Tin Shop and the Arts District. The locals and visitors have been very excited.
- 4) Ryan Miller, with Outboard, the Worlds Largest Gay and Lesbian Snowboard Organization- They are trying to plan a trip for their group March 30-April 4 and is asking the Council to help them with finishing their planning needs. Estimating \$450,000 revenue from their group. What is critical to their event is being able to secure facilities. They have been able to secure the Ice Rink for an event but they are also trying to secure the Rec Center Pool for April 2. In order to make that viable they need to be able to serve alcohol in the facility. They have been working with the Rec Center and BRC staff to see if there are any other options that allow them to be able to do so. They need help securing the last venue. Timeline is as soon as possible. Competitors are in the process of opening their registrations. They have been working on this for months now and are trying to minimize their loss to their market share..

CONTINUED BUSINESS

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

1. Council Bill No. 10, Series 2009- AN ORDINANCE AUTHORIZING THE CONVEYANCE OF CERTAIN TOWN-OWNED REAL PROPERTY TO MERCY HOUSING COLORADO, a Colorado non-profit corporation (Tract 1, Valley Brook Subdivision)

Tim Berry commented that the ordinance would authorize the conveyance of the land to Mercy Housing for the Valley Brook development. Several non-substantive revisions were made since the first reading. The conveyance may not be appropriate until the first of the year. Because of several unresolved issues surrounding the deal, staff is advising that the Council continue final reading of this ordinance indefinitely.

Mayor Warner clarified to the public that this did not mean that they are killing the Valley Brook project. It is just putting on hold the conveyance of the land to Valley Brook. This is so they can utilize the grant money they received and it requires that the money be spent by the Town, not by Mercy Housing. Tim Berry commented that the Town has also not received final pricing. The Town does plan to convey the land just not yet. Mayor Warner opened a public hearing. Victor Girtman informed the Council of the process with Summit Housing Authority. He just did a reservation agreement for one of the properties. He feels the system is silly. He will not make interest on the \$750 he had to put down that will go in escrow. \$187,500 is what the units were listed for he wanted to make sure that was accurate. Tim Gagen commented that Mercy Housing is working on the pricing with the contractors. Mayor Warner clarified that we have NOT pushed the project back, they have just changes the process. They are still going ahead with the project, we just kept the property in our names. Katie Girtman questioned whether they would consider cutting phases. Tim Gagen commented that as many contracts as they have signed is how many will be built. Mayor Warner closed the public hearing.

Mr. Millisor moved to approve Council Bill No. 10, Series 2009. Ms.McAtamney moved that the main motion and the Council's second reading consideration of Council Bill No. 10, Series 2009 be postponed indefinitely. Mr. Rossi seconded the motion. Mayor Warner stated that pursuant to Roberts Rules of Order, we will now have a vote on the subsidiary motion to postpone Council Bill No. 10, Series 2009 indefinitely. If the subsidiary motion passes, there will be no vote on the main motion to approve Council Bill No. 10, Series 2009, and the Council's second reading consideration of Council Bill No. 10, Series 2009 will be postponed indefinitely. The motion passed 6-0

2. Council Bill No. 30, Series 2009- AN ORDINANCE AMENDING TITLE 4 OF THE BRECKENRIDGE TOWN CODE BY ADOPTING PROVISIONS FOR THE REGULATION OF MEDICAL MARIJUANA DISPENSARIES; AND REPEALING CONFLICTING TOWN ORDINANCES

Tim Berry commented that he has made some revisions based on today's work session. Tim Berry explained the changes.

Mr. Rossi moved to approve Council Bill No. 30, Series 2009 with the changes handed out by Tim Berry. Mr. Mamula seconded the motion.

Mayor Warner opened a public hearing.

Chris Culmos commented that he feels there are challenges with the location. He read from the US Disabilities Act and commented that some of his patients are handicap and second floor locations are difficult.

Peter Kuhn apologized about any implication of a lawsuit at last Council meeting, thanked Council for helping with his education, and invited Council to a 'mock' dispensary. He did map out possible locations on a map and asked Council to look at possible locations.

Lauren Davis, attorney representing the Kuhn's, thanked staff and Council for their time and efforts but still has concerns about allowable locations, on-site consumption restrictions, possible HIPPA issues, and what the Town is asking applicants to initial. This might not be what the Town intended with this verbiage.

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Lee Edwards supports entrepreneurs in our community and questioned whether this application mirrors an application for a liquor license? Tim Berry commented that Liquor licenses are issued by the State of Colorado. Mr. Edwards questioned whether this is more restrictive? Tim Berry commented that it was similar. Mr. Edwards questioned why Ridge Street is excluded? Mayor Warner commented that the Council did not wish to have this type of a facility in the downtown overlay district on ground floor. Mr. Mamula commented that Council was concerned about residential areas. Mr. Edwards asked if this followed Land Use Guidelines and would suggest consistency in Districts 18 and 19. Mr. Mamula commented that Council feels this is a legitimate use and have tried to carve out as many locations as possible. Chris Neubecker brought forth a map showing possible locations and reviewed with Council and interested public. Mayor Warner closed the public hearing.

Tim Berry commented on the federal ADA requirements and that he did not see an issue. He commented on onsite consumption and that it was his understanding that Council was concerned about ventilation and driving after consumption but it is a decision Council can make and he does not believe Amendment 20 requires it. He commented on the locking safe issue that Attorney Lauren Davis brought up and he would like to add language on Page 18, line 35 to allow for this. With respect to the ID card and registration, requiring the licensee to maintain a record of the ID card number furthers the purposes of ensuring that only those allowed to get marijuana are getting it. Whether it is accessible to Police is another issue. Language is OK. Tim Berry commented on Lauren's concerns about the notice given to applicant's that possession of marijuana is a violation of federal law. He feels this is just a fact and that he understands her statement but it is not his intent to try to scare anyone away and does not agree with it. Although the federal administration has said they will not prosecute anyone it is not to say that won't change and it is important for patients to know this. Question of District 18, there is a legislative termination the Council is entitled to make with respect to the appropriate locations. There is a provision on page 17, Paragraph G that he asked Council to review. The thought behind it was to not put the permittee at risk of having to move if another business such as a school were put in. Mr. Mamula asked Tim Berry if this application would go in front of Planning Commission and how this would fit in the review process, with consideration of water taps, parking required, etc. Chris Neubecker commented that they would probably treat it as an office at this point. Tim Berry commented that the material and information provided to Council over the last several months that it has taken to review this topic should be considered part of the record.

Attorney Lauren Davis commented that it would be helpful to have guidance about how this business would be considered (i.e. office, etc.) and would be helpful for tax filing. She commented that patients are not required to have a registry card but rather have a medical recommendation and this could create undue challenge for enforcement. Mr. Berry suggested striking #3. Everyone was OK with that. Mr. Millisor asked Chris Neubecker a clarifying question about the overlay district and suggested adding "or the downtown overlay district" page 16, line 6.

Tim Berry restated the motion to approve the ordinance as handed out with three additional changes. Page 16, Line 6 adding "or the downtown overlay district. Page 18, Line 35 "all the storable inventory of marijuana if marijuana is to be stored overnight on the premises." On Page 19, Section 4-17-37 Required Record, A3 Patients Medical Marijuana Registry Identification Card Number would be deleted.

Ms. McAtamney commented that the voters in Colorado approved this method of but left it up to municipalities. Our job is to bring it to our community in a safe way. Mr. Millisor commented that it's a balancing act for the patients and the neighborhoods but he supports it. Mr. Rossi commented that we had the option to deny this as other municipalities have done, but we are pioneering this process. He believes we are doing the right thing to address it and taking the hard path of trying to make it work. Mr. Joyce commented that this was a new business model. They are trying to create something that works for new as well as existing businesses. Mr. Mamula commented that he believes this is the right thing to do but what bothers him is the abuse of this business segment and urges providers to advocate to the State of

Colorado that this industry needs to regulate better. Mayor Warner agreed that this is the right thing to do and appreciates staff and citizens time. The motion passed 6-0.

3. Council Bill No. 32, Series 2009- AN ORDINANCE AMENDING SECTION 2-4-8 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE RULES AND REGULATIONS OF THE BRECKENRIDGE OPEN SPACE ADVISORY COMMISSION

Tim Berry commented that this ordinance would eliminate the requirement that a change to the BOSAC's Rules of Procedure be approved by the Town Council before becoming effective. There are no changes proposed to ordinance from first reading.

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

Mr. Mamula moved to approve Council Bill No. 32, Series 2009. Ms. McAtamney seconded the motion. The motion passed 6-0

NEW BUSINESS

A. FIRST READING OF COUNCIL BILL, SERIES 2009-

There were no First Readings.

B. RESOLUTIONS, SERIES 2009 –

There were no Resolutions.

C. OTHER –

There was no Other Business

PLANNING MATTERS

A. Planning Commission Decisions of September 15, 2009

With no requests for call ups Mayor Warner declared the Planning Commission decisions of the September 15, 2009 meeting would stand as presented.

B. Report of Planning Commission Liaison (Mr. Rossi)- Mr. Rossi commented that landscaping will be a major issue. The minutes accurately reflect the discussion at the last meeting.

REPORT OF TOWN MANAGER AND STAFF

Tim Gagen commented that per the law the CIP was given to the Council, however, it is a work in progress as staff is working on revenue projections. Budget will be distributed one week prior to the retreat which is on October 13th.

REPORT OF MAYOR AND COUNCILMEMBERS-

A. CAST/MMC (Mayor Warner) – nothing to report

B. Breckenridge Open Space Advisory Commission (Mr. Joyce) – postponed meeting

C. Breckenridge Resort Chamber (Ms. McAtamney) – reminded Council about General Managers roundtable this Thursday.

D. Summit Combined Housing Authority (Mr. Millisor) – meeting tomorrow.

E. Breckenridge Heritage Alliance (Mr. Bergeron) - Mr. Bergeron was absent.

F. Sustainability (Mr. Millisor) – meeting last Friday discussion was focused on work force housing.

OTHER MATTERS

Mr. Rossi: would like to discuss how we can accommodate groups and utilize town facilities. Mayor Warner commented that we need to have a discussion on the criteria to use town facilities and is this current request in our shoulder season. Mr. Rossi commented that we do have a fee structure for renting but the roadblocks have been put in place to discourage facility rental. Mr. Millisor commented that

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wasn't the issue, insurance and alcohol were. Tim Gagen commented that John McMahon and Kim DiLallo are working on putting together criteria and a process to handle these town-wide group requests. The red flag issue for this request is alcohol in the pool area, displacing users is a policy issue but staff will take Council's direction. Mr. Rossi heard that there are unanswered phone calls and is concerned. Mr. Millisor commented that this is a chance to reset our norms and think we should look at displacing guests, which are tax payers. Mr. Mamula disagreed because tax payers support Town facilities. He was OK with last hour of the day, or in a slow period. Mr. Rossi questioned what we can do in the short term? Mayor Warner commented that it's both a philosophical and a process issue. Mr. Rossi encouraged us to think outside the box, and solve this in the short term. Mr. Joyce felt it was a short term issue and a long term issue and questioned whether this was a one year or a three year decision? Ryan Miller (from Outboard) commented that it was short term and they need to decide if we can work out the facility issue in order to secure Breckenridge for 2010. He offered to cover the cost of additional insurance. Lynn Zwaagstra commented that we would be setting a precedent by allowing alcohol. Ms. McAtamney commented that we used to do events in public facilities and believes this can be a new way of doing things and that long term we need to come up with metrics and short term we can work out details so she was OK with request. Mr. Millisor commented that it should be allowed after 9pm, and user needs to pay for extra costs. Mr. Rossi commented that the fee structure needs to reflect costs (cleaning, lifeguards, etc.). Mr. Joyce agreed and said, this is good for our community but need to cover costs and is a fair figure; not concerned about 8 or 9 pm. Mr. Mamula was OK with 8pm but staff needs to evaluate number of lifeguards and to look at this as a new revenue source though he is concerned that this event does affect an Easter Sunday operation. Mayor Warner was fine with it. Leave it up to staff to work out details. Asked Shawna Henderson to bring a message back to John McMahon that Breckenridge does have higher taxes than some of our competitors that he spoke about at the joint meeting earlier this evening but we have better facilities and amenities.

At 10:05pm Mr. Rossi moved that the Town Council go into executive session pursuant to Paragraph 4(a) of Section 24-6-402, C.R.S., relating to the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; and Paragraph 4(f) of Section 24-6-402, C.R.S., relating to personnel matters. Mr. Joyce seconded the motion. All were in favor

Mayor Warner declared that the real property that is the subject of the executive session is real property located within the Town boundaries that the Town Council may have an interest in acquiring.

The personnel matter that is the subject matter of the executive session involves possible personnel changes that may need to be made in light of the Town's current and anticipated future financial situation.

At 10:32pm Mr. Rossi moved that the Town Council adjourn the executive session. Mr. Mamula seconded the motion. All were in favor.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 10:32 p.m.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor