

CALL TO ORDER and ROLL CALL

Mayor Warner called the November 10, 2009 Town Council Meeting to order at 7:33 p.m. The following members answered roll call: Ms. McAtamney, Mr. Joyce, Mr. Mamula, Mr. Millisor, Mr. Bergeron, Mr. Rossi, and Mayor Warner.

APPROVAL OF MINUTES – October 27, 2009 Regular Meeting

Ms. McAtamney commented that under Citizens Comments it should say that The Housing Authority did not share the information rather than Mercy. Mayor Warner declared the minutes were approved with the one correction.

APPROVAL OF AGENDA

There were no changes.

COMMUNICATIONS TO COUNCIL

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

1) Marty Lessow- Commented on the refurbishing of the Prospector. He owns Marty's for Kids as well as the Wildflower location. He is concerned about the construction of this building over the Holiday's. He would have loved to have seen this project be held back until the ski season was over so there was not a disruption of that set of historic buildings which will also challenge pedestrians walking through that area. He feels for the builder but is wondering if there is anything that can be done.

Tim Gagen commented that all that is being considered tonight is the approval of the plans. We can not help with the timing but Mayor Warner commented that they would try to get to the bottom of the inconsistency with the fence line.

2) Steve Pinewski- Owner of Prospector- He would have liked to have started this project 2 months ago but it took longer because it is a historical building. He has a fast track plan and will try to do it as quickly as possible. Is open to working with everyone and will move the fence back to 1 foot rather than 3 feet once he gets the foundation in.

3) Rob Waterman- Speaking on behalf of Dee Phelps and Bernie Wieland- Short Term Rentals- Sales are falling out because of restrictions of on short term rentals. There is the potential for a sizable impact on the Town's revenues. Believes the Town has a dog in this fight. They see a trend but don't know how big it is. They would like to try to get a better handle on this and provide the Council will facts and info related to the size of the trend.

4) Terry Menning- Thinks the impact for the short term rentals could affect eth businesses in Town and the shops are going to shut down. Feels there could be a devastating long term impact. He is an investor and his intention was to come in and pick up about \$2 Million worth of rental properties. He urged the Town Council to do what it takes to preserve the short term rental income that comes into this Town.

5) Larry Hairston- Just recently purchased 2 properties with the intent of using them as short term rentals. If he has known there was any chance that the HOA's could decide that they did not want to allow rentals, he would have never purchased either of them which is also a loss to the Town. It will be difficult to sell properties in the future if this is hanging over them.

6) Jason Brewer- It appears that the Town council has no right to tell the HOA what to do but maybe they could compromise by making the HOA's get a unanimous vote.

Mayor Warner questioned the Town Attorney about the Town's ability to effect private covenants of HOA's. Tim Berry commented that he was concerned about the local government becoming involved with a contractual agreement that we are not a part of. The HOA's are regulated by State Law. He has never heard of a Colorado Municipality that acted to try to affect a private covenant. Tim Berry commented that the Town of Avon took a zoning approach. Their zoning system is so much different from our system.

7) Bernie Zurbruggen- Thinks it is wonderful that these folks are showing their concerns. His good sense tells him that having the Town of Breckenridge do something is just as hard as HOA's telling homeowners what they can and can't do. Each HOA needs to deal with these issues themselves. He thinks education is a better fix than the Town doing something.

8) Bill Plummer- He is on the HOA of Sunrise Point HOA where 1 house of 12 is creating all this. All the houses are 20 feet from each other. The house is advertised as 5000 sqft 5 bedroom/5 baths, sleeps 27 and they have a problem with parking issues, noise issues. Their deck is 20 feet from eth house next year. They tried to come to an agreement but they couldn't. 9 of the homeowners voted to restrict short term rentals, 2 voted against it and 1 did not want to vote since he only has a lot and didn't want to get involved. This is not a condo complex. If he was looking for a 205 million property he can not see how someone would want to buys something next to a party house. This is not a trend and this is not a condo complex. They just want piece and quite. Do not want Town Council to do anything.

9) Shane Wagner- He spoke on behalf of how conscientious the Phelps/Wieland folks are with renting their house. They do not allow parties.

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, NOVEMBER 10, 2009
PAGE 2**

10) Bernard Wieland- Owner of the house in Sunrise Point that is being rented. He strongly opposes some comments that have been made but he will debate them in a more formal forum. He gave some history about the house and how things came to be. He would have to identify when selling a piece of property that and HOA can suddenly decide to restrict short term rentals. He objects to the comments of Mr. Plummer very strongly.

Mayor Warner commented that it does not appear that the Town Council can do anything. The Town Council will have some discussion but it does not appear that it will get solved tonight.

Mr. Joyce commented that they can not really digest this in one short session. They need to be educated on how much of a trend this is.

Ms. McAtamney completely sympathizes with the Phelps/Wieland's. It is surprising that a board can do this but we need to defer to our Attorney. It appears to be more of a state issue.

Mr. Millisor commented that there is no doubt that short term rentals are important to our community. We need to understand what the law is and if we have the ability to do anything. He is not sure this is a trend and no sure we want to go down the path of restricting HOA's.

Mr. Rossi- Agree with Mr. Millisor about short term rentals being vital to this community. We don't have any examples of other communities doing something. The State has made some strong rules for the governance of HOA's. As owners we need to stay on top of the HOA's. He thinks HOA's have more power than municipalities do and can affect your pocketbook. Willing to learn more but with only one issue right now he believes we need to keep an eye on it.

Mr. Bergeron- Does not think this is a trend but understands the Phelps/Wieland issue. If our Town Attorney says we can't do anything about it then that is unfortunate. If it really is a trend we should look into things.

Mr. Mamula- Commented that whether we can do anything or not it is important to determine what is going on in the entire community and not just this HOA. He has always trusted our Town Attorney and if he says we can't do anything than he trusts that.

Mayor Warner commented that he would like to know more about this. They will have to win him over that it is government's job to do something about property values and HOA's actions.

B. BRC Director Report- John McMahon- Thanked Council for the stimulus. Feedback on Marijuana Initiative had been about 50 positive and 50 negative. It is really a non-issue. Communication is in alliance with what the Town and Ski Area have put out there. Looking for info on the issue of Funding Marketing through a raise in Sales Tax. Mr. Millisor commented that Rob Katz with Vail Resorts contacted him to let him know that the ski area said that they will 100%, adamantly oppose any tax at this time. He felt it could be a big story and that Vail would have to come out as opposed to it. They do not believe it is the time to do it. John commented that they should still get the pulse of eh membership but it is important to have Vail Resorts, one of their biggest stakeholders, on board. They owe it to themselves to at least explore it. Mr. Rossi commented that we need to determine if there is an issue with both the sales tax and amusement tax or just one or the other. Everything they have in Town is taxed, food sales, lodging, etc. Mr. Rossi commented that the ski area is really pushing value and this conflicts with the reductions in prices they have presented.

They are going to have a BRC business breakfast on December 9th at 8a.m. and the speaker will be Rob Katz and Pat Campbell as well as representatives from the Dew Tour.

CONTINUED BUSINESS

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

1. Council Bill No. 34, Series 2009- AN ORDINANCE APPROVING AN AMENDMENT TO PARKING LEASE WITH VAIL SUMMIT RESORTS, INC. (Part of Tract A, Runway Subdivision)

Town Attorney Tim Berry explained that in 2004, the Town entered into a long-term parking agreement with Vail for the south portion of the Block 11 property. Since then, the Town has constructed a child care center and police facility in this location and the parking was relocated. The purpose of this ordinance is to approve a formal amendment to the lease to relocate parking from the south Block 11 parcel to area that has been in use for the last couple of years. There were no changes from first reading.

Mayor Warner opened a public hearing. There was no comment. He closed the public hearing.

Mr. Bergeron moved to approve Council Bill No. 34, Series 2009. Mr. Rossi seconded the motion. The motion passed 7-0.

NEW BUSINESS

A. FIRST READING OF COUNCIL BILL, SERIES 2009

1. Council Bill No. 35, Series 2009- AN ORDINANCE PROVIDING FOR AN INCREASE IN MUNICIPAL WATER USER FEES EFFECTIVE JANUARY 1, 2010

Tim Gagen commented that the ordinance would set the water rates for 2010. There is a small increase in fees for 2010. This is a \$1/mo increase per SFE.

Mr. Mamula moved to approve Council Bill No. 35, Series 2009. Ms. McAtamney seconded the motion. The motion passed 7-0.

2. Council Bill No.36, Series 2009- AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2010

Tim Gagen commented that the ordinance would establish the 2010 Property Tax Mill Levy at the rate of 6.94 mills per dollar of assessed valuation of property within the limits of the Town of Breckenridge.

This rate represents a .57 mill decrease from the 2009 rate of 7.51 mills. Of the 6.94 mills, 5.07 mills are for the purpose of defraying the expenses of the General fund. There is an additional assessment of 1.87 mills to meet the Town's general obligation indebtedness described in Ordinance No. 35, Series 1998, which is due and payable in fiscal year 2010.

Mr. Bergeron moved to approve Council Bill No. 36, Series 2009. Mr. Joyce seconded the motion. The motion passed 6-1 with Mr. Rossi opposing.

B. RESOLUTIONS, SERIES 2009- NONE

C. OTHER –

1. Budget Public Hearing

Tim Gagen commented that there were substantial cuts in the 2009 operating and CIP budgets. 2010 budget is a mirror of those cuts. We are projecting flat Sales and Accommodation Tax to 2009 projected and a slight increase in RETT. 2010 operating budget reflects a number of business related changes such as reduced hours during low participation times, reduced service levels particularly in PW, reduced staffing and wage freezes. We are pushing towards more on-line registration, bill pay, simplification of fee schedules, etc. We are presenting a barebones CIP. Golf Fund is down. Water Fund is expecting some major projects. Open Space mirrors 2009. Housing Fund consists of child care and Valley Brook. Marketing Fund- Revenue is down with rest.

Mayor Warner opened a public hearing. Eric Buck asked what percent of budget is funded through property tax. Tim Gagen commented that we generate \$1.5 million. He closed the public hearing.

PLANNING MATTERS

A. Planning Commission Decisions of November 3, 2009

The Planning Commission decisions were approved as presented.

B. Report of Planning Commission Liaison

Mr. Rossi had nothing to report. Mayor Warner questioned the minutes on the business discussion related to the Gondola. Sounds like they still had questions about the business deal. How do we get around this confusion? The Planning Commission didn't seem to have a high level of comfort with the proposal because they didn't really understand the business deal. Tim Gagen commented that it was important to remember that this is just a Master Plan. There is always some confusion about what a master plan is with the new people on Planning Commission. Mr. Mamula commented that it was good the Planning Commission made them go back on the circulation issue. Tim Gagen commented that they need to have a concept of how it's going to work. Mr. Rossi commented that these notes and all future notes need to be presented when it comes back to Town Council in the future. Mr. Mamula thinks it is important to keep a list of concerns throughout the process. Tim Gagen commented that it is a good idea and to remember that they will get a full blown presentation.

REPORT OF TOWN MANAGER AND STAFF

Tim Gagen had nothing else to report except to remind the Town Council that the second meeting in December is cancelled.

REPORT OF MAYOR AND COUNCILMEMBERS-

A. **CAST/MMC** (Mayor Warner)- Mayor Warner reported at the work session.

B. **Breckenridge Open Space Advisory Commission** (Mr. Joyce) – Nothing to report.

C. **Breckenridge Resort Chamber** (Ms. McAtamney) – Wake Up Breck is tomorrow morning. Working with Ski area on Dew Tour- working on details for festival village on Peak 8 with Gondola working and other events related to the Dew Tour (Jumbotron, concerts, etc). Had a change in the personnel in sales. With the advice of some of the people on the board John's wife will be working in the interim. PR wise- Hosting the Snow Virgins in January. Changing Best Practices. Oktoberfest was great, signed three year contract with Budweiser. Ullr Fest theme is "Live the Lore." Focusing on Social Media. CenRes is doing fine but continuing to watch it.

D. **Summit Combined Housing Authority** (Mr. Millisor) – There was no meeting.

E. **Breckenridge Heritage Alliance** (Mr. Bergeron)- Robin Theobald joined the board and has already been pretty involved. He's been working with Tony Harris on the Klack Placer Cabin and is

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, NOVEMBER 10, 2009
PAGE 4**

donating a main street retail space for us to use this winter as a ski exhibit/museum. Work on the Klack Cabin is about halfway done (this is a town-owned building, believed to be one of the oldest, still-standing structures in Town). Tony Harris is replacing the roof for free (all materials and labor donated) and will begin work on the deteriorating base of the building this week. The Carter Museum won two big awards this past month for the museum re-design, the most recent from the Colorado Historical Society. They met with Breck150 group to talk about an ongoing August event, post Breck150. Attendance numbers are off (about 10% of last year) but donations/sales/fees are ahead of budget (\$39K brought in year to date compared to \$25K budgeted for the entire year). Engine #9 is complete (or very close to complete), but will be stored in Grand Junction this winter while work continues on Engine #111 east of Denver. French Gulch signs won't go in until June 2010. They hired a new part-time employee, Ryan Bemal. He'll work three days a week for us.

F. **Sustainability** (Mr. Millisor)- There was no meeting.

G. **Fire Wise** (Mr. Joyce) – He reminded the Town Council to turn in goals.

OTHER MATTERS

Mr. Mamula commented that the Restaurant Association supports the Sales Tax initiative to fund marketing. The Town Council discussed the method of polling the business community on the Sales Tax marketing Fund Initiative. Mr. Rossi commented that it was important for us to research it and not just sell it. We need to be careful with the advocacy of it rather than just objective research. The Council agreed that they need to take a temperature first.

The Town Council supported a dog tag memorial at the Carter Park dog Park.

Mr. Bergeron commented on the MOU on Peak 6. He thanked Alison Kellermann and Kim DiLallo for their work on fielding calls and inquiries on the decriminalization of marijuana. He knows it took a lot of time out of their schedules.

Mr. Millisor questioned the operation of the gondola. Tim Gagen commented that if they need to operate other than an hour before and after other lifts run they have to make a special request.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:35 p.m.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor