

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, JANUARY 12, 2010
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CALL TO ORDER and ROLL CALL

Mayor Warner called the January 12, 2010 Town Council Meeting to order at 7:34 p.m. The following Council members answered roll call: Mr. Bergeron, Mr. Joyce, Ms. McAtamney, Mr. Mamula, Mr. Millisor, Mr. Rossi, and Mayor Warner.

APPROVAL OF MINUTES – December 8, 2009 Regular Meeting

With changes to the minutes from Mayor Warner submitted prior, he declared that the minutes were approved.

APPROVAL OF AGENDA

Mayor Warner noted the addition of an Executive Session to discuss property acquisition under “Other Matters and that an amended copy of Council Bill No. 39 was handed out. Town Manager Tim Gagen mentioned the addition of Council Bill No. 1, Series 2010 “An Ordinance Approving a Development Agreement with B & D Limited Partnership” under “New Business.” With those changes, the agenda was approved.

COMMUNICATIONS TO COUNCIL

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

Myra Musso commented about the Rec Center hours; followed up on the financials at the Work Session; reiterated need for extended hours during winter; possible solutions were presented; shared input she received from those signing the petition.

John Daisy, Dick Carleton, Mark Burke thanked the Council for the financial support of the Dew Tour. Mr. Carleton asked that Council continue to support the Dew Tour even if the sponsor village is at the base of Peak 8, but encouraged the organizers to create connections; talked with a variety of business owners that did well that week. Mr. Burke asked the Council to consider the great media value.

Robert Silverstone understands times are tough, but asks the Council to consider keeping the Rec Center open until 9 p.m. on Saturdays and Sundays, and feels it is relatively low cost.

B. BRC Director Report- John McMahon thanked Council for the stimulus; have seen good results; his survey shows businesses reported 70% saw a positive impact; of those, 80% same or better sales than last year; ideas for next year include animating Blue River Plaza. The BRC is working on February and March events. The Texas Ski Council visits this month, and will be in the Ullr parade. Blue Ribbon Committee met in December, and the BRC Board endorsed using funds for an RRC survey; 400 voters in Breckenridge were polled; results showed 60% would not support, 40% would if a sales tax increase would be on the ballot in April; RRC’s recommendation is to go slow and put on a future ballot; asked for input on what advice to give to the Blue Ribbon Committee. Mayor Warner asked if RRC had clarification on their statistics; he is encouraged with the high support for the Town to support tourism; if we don’t put it on the ballot, the BRC will be back in the fall for marketing dollars, which is not sustainable. Mr. Bergeron while he supports the increase, he is concerned about rushing into putting this on the April ballot; the mood of the community and the nation is not to increase taxes so would suggest looking at November. Mr. Mamula reported that the business community is hurting now, and felt that April (either 2010 or 2012) would be better than November. Ms. McAtamney is nervous about waiting until November due to a number of reasons; need to go after the votes one by one. Mr. Joyce would like to see what the Blue Ribbon Committee’s plan would be. Mr. Rossi does not support an April ballot as it is hasty; did get called and polled, and he was disappointed that the amusement tax was not included; he would like to be sure that every alternative has been researched. New Director of Sales is Donna Horii with great experience. Happy Ullr.

CONTINUED BUSINESS

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

1. Council Bill No. 38, Series 2009- AN ORDINANCE AMENDING CHAPTER 3H OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE BY ADOPTING PROVISIONS CONCERNING THE MUNICIPAL OFFENSE OF “UNLAWFUL ACTS BY SKIERS”

Tim Berry commented that the second reading of the ordinance incorporating into Town law the penal provisions of the Colorado Skier Safety Act was continued from the December 8, 2009 meeting because of a problem with the newspaper publication of the ordinance after first reading. There were no changes from first reading.

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

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Mr. Mamula moved to approve Council Bill No. 38, Series 2009 as previously read into the record. Mr. Millisor made the second. All were in favor.

2. Council Bill No. 39, Series 2009 - AN ORDINANCE AMENDING SECTION 6-3H-1 AND SECTION 6-3H-6 OF THE BRECKENRIDGE TOWN CODE CONCERNING MARIJUANA-RELATED MUNICIPAL OFFENSES AND THE MUNICIPAL OFFENSE OF POSSESSION OF DRUG ARAPHERNALIA

Tim Berry commented that at the Town Council's last meeting on December 8, 2009 the second reading of Council Bill No. 39 was continued to the January 12, 2010 meeting because of a problem with the newspaper publication of the ordinance following first reading. This ordinance amends the Town Code to reflect the passage of Question 2F, and also adds to the Town Code new municipal offenses related to the public display and consumption of marijuana, and possession of more than one ounce but less than eight ounces of marijuana.

On December 8, 2009 the Council adopted a separate emergency ordinance containing the same substantive provisions as are set forth in Council Bill No. 39. This was done so that the voter-approved changes to the Town's marijuana laws would be in place by January 1, 2010 as directed by Question 2F.

Notwithstanding the adoption of the emergency ordinance the Council needs to take some final action with respect to Council Bill No. 39. Mr. Berry explained that if Council members are still comfortable with the terms of the emergency ordinance, he recommends that Council defeat Council Bill No. 39 tonight at the second reading.

However, as Mr. Berry reported that he heard at the afternoon Work Session that Council would like to consider passing Council Bill No. 39, which could be amended to reflect minor changes and then be adopted on second reading. Mr. Berry then reviewed the changes from first reading including modifying the effective date of Council Bill No. 39 and repealing the emergency ordinance.

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

Mr. Mamula moved to approve Council Bill No. 39, Series 2009 as previously read into the record with the changes distributed by Mr. Berry this evening. Mr. Bergeron made the second. The motion passed with five votes in favor and two against.

3. COUNCIL BILL NO. 40, SERIES 2009- AN ORDINANCE CONCERNING THE CLASSIFICATION OF VIOLATIONS OF TOWN ORDINANCES

Tim Berry commented that this ordinance would make it clear that all Town Code violations are classified as misdemeanors unless otherwise expressly provided in the Code. There were no changes 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. 40, Series 2009 as previously read into the record. Mr. Rossi made the second. All were in favor.

4. COUNCIL BILL NO. 41, SERIES 2009- AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH VAIL SUMMIT RESORTS, INC. (PARKING RATIO – GONDOLA LOT MASTER PLAN)

Mr. Berry commented that on December 8, 2009 the Town Council approved on first reading a development agreement with Vail Summit Resorts, Inc. for a reduced amount of parking for the condo-hotel within the Gondola Lots Redevelopment Master Plan. The development agreement would allow parking at a ratio of 1 space per unit, rather than 1.5 spaces as currently required in the Breckenridge Off-Street Parking Regulations. The reduction was based on the mixed-use nature of the development, proximity to transit, walkability, and a traffic and parking study from Felsburg, Holt & Ullevig engineering and transportation consultants that supports the reduced parking ratio. There were no changes 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. 41, Series 2009 as previously read into the record. Ms. McAtamney made the second. All were in favor.

NEW BUSINESS

A. FIRST READING OF COUNCIL BILL, SERIES 2010-

1. Council Bill No. 1, Series 2010 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH B & D LIMITED PARTNERSHIP

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Mr. Berry summarized this council bill which authorizes the Town to enter into a development agreement with B & D Limited Partnership. The development agreement provides for certain density adjustments and allowances on the site in return for six commitments on the part of the developer.

Mr. Millisor moved to approve Council Bill No. 1, Series 2010 with a change to Section 1, Paragraph E (iv) to add "Main Street" before the word "sidewalk." Mr. Mamula made the second. All were in favor.

B. RESOLUTIONS, SERIES 2010-

1. A RESOLUTION APPROVING AN AMENDED AND RESTATED ANNEXATION AGREEMENT WITH BRADDOCK HOLDINGS LLC, a COLORADO LIMITED LIABILITY COMPANY, AND SMI LAND, LLC, A COLORADO LIMITED LIABILITY COMPANY

Tim Berry commented that during the December 8, 2009 work session the Town Council discussed proposed modifications to the annexation agreement that was originally approved in 2008 for the Stan Miller and Braddock Holdings property located at the north end of Town.

Mr. Mamula moved to approve A Resolution Approving an Amended and Restated Annexation Agreement with Braddock Holdings LLC, a Colorado Limited Liability Company, and SMI Land, LLC, a Colorado Limited Liability Company. Mr. Joyce made the second. All were in favor.

C. OTHER –

1. Snow Sculpture Burn Permit-

In conjunction with the 2010 International Snow Sculpture Championships, there is a request to have open fire(s) in a 55 gallon drum and/or in a "kiva" stove on Thursday, January 28, 2010 from 7pm-11:30pm and Friday, January 29, 2010 from 7pm to 1am on Saturday, January 30, 2010. Red, White and Blue would approve use of both a 55 gallon drum and a "kiva" stove. The proposed fires would be set up in the event site for International Snow Sculpture Championships which is located in the Tiger Dredge Lot in front of the Riverwalk Center at 150 West Adams.

Mr. Bergeron moved to approve a special permit to allow open fires during the International Snow Sculpture Championships, on Thursday, January 28, 2010 from 7pm-11:30pm and on Friday, January 29, 2010 from 7pm to 1am on Saturday, January 30, 2010. All burning shall comply with the "Open Burning" requirements of Section 307 of the International Fire Code, 2003 Edition. In addition, the applicant shall obtain a bonfire or open burning permit from the Red, White & Blue Fire Department. Ms. McAtamney made the second. All were in favor.

PLANNING MATTERS

A. Planning Commission Decisions of January 5, 2010

The Planning Commission decisions were approved as presented.

B. Report of Planning Commission Liaison

Mr. Rossi reported on a work session on the Bradley residence. There was discussion amongst Commissioners regarding whether the code stretches the requirements in order to obtain a landmarking designation.

C. The Gondola Lots Master Plan Call Up Hearing

The call up hearing on application number PC2009010 was held in accordance with Section 9-1-18-5 of the Town's Development Code. A verbatim tape recording of the proceedings was made and will be maintained as required by law. No attempt is made in these minutes to set forth a verbatim record of the proceedings of this hearing.

During the hearing the Council approved the following modifications to the Point Analysis for the project proposed by the staff: remove all positive points for transit under Policy 25/Relative, and, with the consent of the applicant, increase the number of positive points to be awarded under Policy 24/Relative from +4 to +8 by increasing the amount of employee housing to be provided in connection with the project from 6.51% of the density up to 8.51%. This left the application with a total score of zero on all relevant relative policies.

Also during the hearing the applicant, through Alex Iskenderian, verbally agreed to modify the application as follows:

1. The commercial density for the project will not exceed 30 SFEs.
2. The minimum amount of townhomes density to be constructed as part of the project will be 25 SFEs.
3. South and North Depot Roads will be open and available for public parking, even though it will be a private road owned and maintained by the applicant or applicant's successor.

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The Town Council agreed to the three modifications to the application, and to proceed with the application as modified by the applicant.

At the conclusion of the call up hearing, Mr. Mamula moved to approve the revised point analysis for the application, and to further approve Application No. PC2009010 with the Findings and Conditions set forth on pages 207-211, inclusive, of the January 12, 2010 Town Council Agenda Packet, amended as follows:

1. The commercial density for the project will not exceed 30 SFEs.
2. The minimum amount of townhomes density to be constructed as part of the project will be 25 SFEs.
3. South and North Depot Roads will be open and available for public parking, even though it will be a private road owned and maintained by the applicant or applicant's successor.

The motion further directed the Town Attorney to prepare a written decision reflecting the Council's determination of this application.

Mr. Rossi seconded the motion. A roll call vote was taken. All Council members voted in favor of the motion. The motion was declared to have passed. The hearing concluded at 11:45 p.m.

REPORT OF TOWN MANAGER AND STAFF

No report.

REPORT OF MAYOR AND COUNCILMEMBERS-

- A. CAST/MMC (Mayor Warner) – Mayor Warner submitted his report via email.
- B. Breckenridge Open Space Advisory Commission (Mr. Joyce) – Mr. Joyce reported that they discussed maps and trails.
- C. Breckenridge Resort Chamber (Ms. McAtamney) – Ms. McAtamney reported that Allied Sports would like to sign a three-year agreement; Breck has first right of refusal before Feb. 15; Brett Howard is reaching to the lodging community; also discussed the intellectual rights portion to the annual marketing agreement.
- D. Summit Combined Housing Authority (Mr. Millisor) – No meeting.
- E. Breckenridge Heritage Alliance (Mr. Bergeron) – No meeting.
- F. Sustainability (Mr. Millisor) – Meeting this week.
- G. Fire Wise (Mr. Joyce) – Meeting this week.

OTHER MATTERS

Rob Millisor asked if we could waive the fees for Sanitation District (road cut and BOLT). Tim Gagen will check into if there was a different procedure; he reported that Xcel and other nonprofits have a business license.

Dave Rossi noted that BOSAC is working towards another trail map of which he plans to submit a bid for the design; he has discussed this with Tim Berry.

Tim Gagen reported on the motorized use of Sallie Barber and confirmed the Council's support for prohibiting it in winter and summer, and prohibiting motorized use in winter on Gold Run Road through the Nordic bubble.

At 11:52 p.m. Mr. Bergeron 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. Mr. Rossi seconded the motion.

The Mayor then stated that a motion was made for the Town Council to go into an 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. The property that is the subject of the executive session is a lot in the northerly part of the Town, and two open space tracts. All were in favor of the motion.

At 12:18 a.m., Mr. Rossi moved to come out of executive session. Mr. Millisor seconded the motion. All were in favor of the motion.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 12:18 a.m.
Submitted by Kim DiLallo, Director of Communications.

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ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor