

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, JANUARY 26, 2010
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CALL TO ORDER and ROLL CALL

Mayor Warner called the January 26, 2010 Town Council Meeting to order at 7:32 p.m. The following members answered roll call: Ms. McAtamney, Mr. Joyce, Mr. Millisor, Mr. Bergeron, Mr. Rossi, Mr. Mamula and Mayor Warner.

APPROVAL OF MINUTES – January 12, 2010 Regular Meeting

Mayor Warner requested corrections to Mr. Carleton's comment about Dew Tour support and to the CAST Report to reflect that the Mayor submitted a report via email the day before. With those changes made, Mayor Warner declared the minutes were approved.

APPROVAL OF AGENDA

Mayor Warner requested the addition of two items under Other Matters: Housing Policy and additional Marketing Fund discussion. With those additions, the agenda was approved.

COMMUNICATIONS TO COUNCIL

- A. Citizen's Comments - (Non-Agenda Items ONLY; 3 minute limit please) – None

CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILL, SERIES 2010 - PUBLIC HEARINGS**

1. Council Bill No. 1, Series, 2010- AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH B & D LIMITED PARTNERSHIP (Redevelopment of Old BBC Site)

Town Attorney Tim Berry explained that this ordinance authorizes the Town Manager to sign a development agreement relating to the proposed redevelopment of old Breckenridge Building Center site. The agreement allows the Planning Commission to consider a new master plan under the terms and conditions of the development agreement. The only changes proposed to the ordinance from first reading are some formatting issues in the legal description contained in both the ordinance and development agreement. Mr. Berry understands that some property owners have expressed concern and suggested the appropriate forum to be heard should be when the Planning Commission considers the master plan application. The Town Council will have an opportunity to review the master plan decision.

Mayor Warner opened the public hearing. Mr. Paul Olson informed that he and his wife are building a home on Royal Tiger. He wanted to emphasize his concern about the possibility of ridgeline development, and the importance of maintaining town aesthetics and protecting scenic backgrounds. Mayor Warner clarified that the time to discuss this matter will be at the Planning Commission meeting, when staff applies the development code to the application. He shared Mr. Olson's concern that ridgeline development is important to the Town Council and explained that it was not being approved as part of this process. There were no further comments and the public hearing was closed.

Ms. McAtamney moved to approve Council Bill No. 1, Series 2010 in the form included in the agenda packet. Mr. Millisor seconded the motion. Other Council members recognized the concerns expressed and concurred that the Planning Commission meeting was the appropriate place for the discussion. The motion passed 7-0.

NEW BUSINESS

A. FIRST READING OF COUNCIL BILL, SERIES 2010

1. Council Bill No. 2, Series 2010- AN ORDINANCE ADOPTING SECTION 6-3A-5 OF THE BRECKENRIDGE TOWN CODE CONCERNING BIAS-MOTIVATED MUNICIPAL OFFENSES

Mr. Berry explained that the Municipal Judge, as part of his annual report to the Council, recommended that the Town consider adoption of an ordinance based on the State's bias-motivated crime statute. This ordinance takes the state statute and makes it a town offense to intimidate or harass an individual based on a person's race, color, religion, ancestry, national origin, physical or mental disability or sexual orientation. He noted that the Council feels strongly that Breckenridge send a message that this type of conduct will not be tolerated in Town.

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Mr. Berry then reviewed modifications to the ordinance from first reading, including: the charge cannot be dismissed or plea bargained unless the case cannot be proven; elimination of mandatory penalties for a first offense to give the Judge discretion on first convictions; and mandatory minimum fines and jail time for a second and/or subsequent offense.

Mayor Warner questioned and Mr. Berry confirmed that municipal court moves with more speed than the county court, that having this offense on the books sends a stronger message, and that the municipal judge will use his discretion based on the facts of the particular case to assess an appropriate penalty. Mr. Berry added that this is similar to other recent ordinances that have been added to the municipal code.

Mr. Bergeron moved to approve Council Bill No. 2, Series 2010. Mr. Rossi seconded the motion. The motion passed 7-0.

B. RESOLUTIONS, SERIES 2010

1. A RESOLUTION APPROVING THE “THIRD AMENDMENT AND SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR VISTA POINT”

Planner Laurie Best explained that this resolution will approve a modification to the Vista Point housing covenant provision concerning capital improvements beyond the initial five years and that it was consistent with other deed-restricted projects. The resolution also ratifies previous amendments made to the covenant concerning FHA approval and which lots are deed-restricted.

Mayor Warner noted that Ms. McAtamney and Mr. Bergeron live in deed-restricted housing in Vista Point and questioned the other Council members if they felt it was appropriate for them to abstain from this decision. They felt that abstaining was appropriate and Ms. McAtamney and Mr. Bergeron left the room.

Mr. Millisor moved to approve a Resolution Approving the “Third Amendment and Supplement to Declaration of Covenants, Conditions, Restrictions, and Easements for Vista Point.” Mr. Mamula seconded the motion. The motion passed 5-0, with Mr. Bergeron and Ms McAtamney abstaining.

C. OTHER

None.

PLANNING MATTERS

A. Planning Commission Decisions of January 19, 2010

The Planning Commission decisions were approved as presented.

B. Report of Planning Commission Liaison

Mr. Rossi reported that the commission was split on negative points regardless of whether or not the gondola building needed to be a brick structure. He also updated on the Bradley Residence and concerns about “needle threading” to achieve landmark status.

Mr. Mamula brought up the energy policy and commented that he felt better about the topic knowing there were several ways it could be shaped – either as an incentive, penalty or credit. He would like to know about other communities’ experience and whether it has had the intended community benefit of lowering energy use.

C. Gondola Master Plan Call Up Decisions

Mr. Berry explained that at the conclusion of the hearing two weeks ago, the Council directed the Town Attorney to prepare a written form of the decision with respect to the Council’s decision on the application.

Mr. Bergeron made a motion that the written Decision prepared by the Town Attorney regarding the Town Council’s call up hearing on Application No. PC2009010, the Class A Development Permit application submitted by Vail Summit Resorts, Inc. for a master plan for the Gondola Lots at 320 North

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Park Avenue, as set forth in tonight's agenda packet on pages 91 to 100, inclusive, be adopted as the final decision of the Town Council with respect to such application. Mr. Mamula seconded the motion. The motion passed 7-0.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen had nothing further to report.

REPORT OF MAYOR AND COUNCILMEMBERS

A. **CAST/MMC** (Mayor Warner) – Mayor Warner reported that he and Mr. Gagen would be attending the CAST meeting in Crested Butte this week. Some of the topics he plans to discuss include: Hidden Gems, sales tax, and the lift ticket tax in Vail. Other Council members suggested: relationships between Towns and separate ski area operators-metrics, reservations, competitive nature between private lodging companies and ski area properties; Forest Service decision on ski area expansion; and restrictions on short-term rentals by homeowners associations.

B. **Breckenridge Open Space Advisory Commission** (Mr. Joyce) – Mr. Joyce reported on Monday's meeting. Topic included the Hidden Gems, an update on the Gold Run Nordic Center, and the possibility of putting out an RFP for a private contractor to run the facility now so they can come in and see how it actually operates during the winter. There was discussion about the pro forma for open space acquisition and the impact on the budget if certain developments do not occur as planned.

Mr. Bergeron suggested the addition of a dog waste station at the Bomber trailhead and other trailhead parking areas.

C. **Breckenridge Resort Chamber** (Ms. McAtamney) – There was no meeting. Ms. McAtamney updated that the Dew Tour will enter into a contract for next year.

D. **Summit Combined Housing Authority** (Mr. Millisor) – The next meeting is tomorrow morning.

E. **Breckenridge Heritage Alliance** (Mr. Bergeron) – Mr. Bergeron reported on negotiations with the Colorado Historical Society negotiations to sell Engine No. 111 to CHS with the proceeds going to construction of a shelter for Engine No. 9. The Board voted that the Alliance should not be the lead organization for an annual August Town birthday event, however they will support it if it does become an annual event.

F. **Sustainability** (Mr. Millisor) – Mr. Millisor reported on two meetings where second home ownership and the positive and negative impacts were discussed. Other topics included vacation rentals by owner, how to get second homeowners involved in the community and to feel more like locals. Mayor Warner pointed out a great memo put together by staff member Laurie Best outlining what the Town has done to facilitate childcare. It was suggested that additional education about all the Town child care programs be provided to the Little Red Schoolhouse board members.

OTHER MATTERS

A. Housing Policy

Housing discussion – Planner Laurie Best introduced this discussion of Development Code Housing Policy 24R whereby a developer can earn 10 positive points for providing affordable housing. The concern is that this can be enough to mitigate bad design or excessive site disturbance particularly in the instance where a developer receives “free” density through an annexation or development agreement. Recent cases seem to show that +10 points may not be necessary, and in fact may be perceived as “double dipping.” One suggestion is to create separate matrixes for projects, providing point incentives based on the amount of free density versus natural density and projects that hit lower price points.

There was discussion about getting to a per-square-foot cost to drive lower AMI; making sure there is not a double benefit; do not disincentivize getting affordable housing projects; like the matrix idea – if 30 percent of the housing is at 80 percent AMI, can incentivize; want affordable housing, but want it

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to be quality; Planning Commission should not be concerned if a developer makes a lot of money; don't make it so restrictive that no developers come in with affordable housing projects; agree, probably giving too many points; deed restriction covenant needs to be enforced – cannot be occupied just by a family member.

The Mayor summarized the issues: matrix idea, 80 percent AMI, code is the code, employee housing in existing residences, and occupancy.

B. Marketing

Mayor Warner started off the discussion noting that there is a connection between the accommodation tax and successful marketing; however, the accommodation tax alone does not generate the amount of money needed. He suggested memorializing the accommodation tax to fund marketing and filling in the town revenues through an amusement and/or ski lift ticket tax. He suggested the Council determine the number, do the math, and figure out how much tax there should be. He would like to solve the problem for the future.

Mr. Gagen agreed that the accommodation tax does not meet the Blue Ribbon committee's recommendation of \$2.2 million for marketing. Some ideas being discussed include dealing with the ski area to merge the transit systems and to consider the gondola lot business plans needs. Mr. Gagen felt it may be better to come up with a plan together than for the Town to impose something. He then explained how the ski area arrives at the lift ticket tax number in Vail. He encouraged the Council to broaden their view and not only think about solving the marketing problem, particularly in light of the Town's current budget situation.

Council concerns expressed included: gondola lot development may be 10 years away; who will operate what; would like the ski area to bring the proposal to us; if we use the lift ticket tax to run the system, can shift the cost to another revenue stream; Vail covers the operation cost of the parking structure; lodging has a good nexus to marketing; does not solve the dilemma that it may not be enough; think about solving more than just the marketing problem; cannot take money from the fund balance forever; want to be ahead of an amusement or lift ticket tax; want to work this out so it works well for the community; repercussions of imposing a tax; don't want a fractured relationship with the ski area – they are still our biggest marketer; don't want to impact bottom line; Town's commitment to the BRC increased 16 percent and ski area marketing stayed flat; we have a problem with the marketing fund that could jeopardize the community; consider the economic well-being of the community; there is some momentum today; marketing money we spend generates more money; if we dedicate the 2.4 percent accommodation tax to marketing we have a revenue stream, but then we need additional revenue; an amusement tax solves the marketing issue and enhances transit; and a half percent sales tax does not enhance marketing.

There was a variety of opinions about if or when to take this matter to an election, including April 2010, November 2010, November 2011 or April 2012. Other comments included: need to find a way to memorialize a marketing stream going forward into the future; sales tax versus a ski lift ticket tax; don't go for a sales tax now and another tax in November as it weakens our position; would like more information to make an informed decision; get the numbers, get the facts; we need a partner to work with; a unified transportation system would enhance the customer service experience; how do parking and Riverwalk improvements fit in; would rather be the master of our own future; let's share our vision with the ski area; work collaboratively; stay ahead of this issue or someone else will take it on; supplement out of real estate transfer tax if it comes back; and what is the amount of sales tax the ski area pays.

Mr. Gagen will get additional numbers and bring this matter back most likely at the second meeting in February.

On another matter, Mr. Mamula mentioned a problem with trash and litter along Wellington Road.

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SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:47 p.m.

Submitted by Mary Jean Loufek, Town Clerk.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor