

**TOWN OF BRECKENRIDGE  
TOWN COUNCIL REGULAR MEETING  
TUESDAY, FEBRUARY 9, 2010  
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***CALL TO ORDER and ROLL CALL***

Mayor Warner called the February 9, 2010 Town Council Meeting to order at 7:29 p.m. The following members answered roll call: Mr. Mamula, Mr. Millisor, Mr. Joyce, Mr. Rossi, and Mayor Warner. Mr. Bergeron and Ms. McAtamney were absent.

***APPROVAL OF MINUTES – January 26, 2010 Regular Meeting***

With no changes or corrections to the meeting minutes of January 26, Mayor Warner declared they would stand approved as presented.

***APPROVAL OF AGENDA***

Tim Gagen, Town Manager, stated there are no changes to the agenda. He announced for the public's benefit, the Real Estate Transfer Tax Appeal Hearing had been postponed to the March 9 meeting.

Mr. Rossi excused himself.

***COMMUNICATIONS TO COUNCIL***

A. Mayor Warner read a Proclamation celebrating 100 years of Boy Scouting. Scouts of all ages were present.

Mr. Rossi re-joined the meeting.

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

As a business owner, Dave Newkirk voiced concerns over illegal signs and outdoor music throughout town. Of particular concern were the appearance of neon signs and sandwich boards. Mr. Gagen, stated staff will be asked to look into the matter.

C. Breckenridge Resort Chamber (BRC) – Bill Wishowski reported the February membership mixer will be held at the Gold Pan, with a Mardi Gras theme. The snow sculpture event went very well. Attendance was high and was reflected in Central Reservation numbers during the early part of the event week. He complimented town staff's commitment to the success of the event. Media coverage was very good. The Welcome Center saw 5,000 visitors during the week.

The Bacchus Ball will be held this Saturday at Beaver Run. The Denver Golf Show is this weekend. BRC staff will be in attendance along with Golf Pro, Erroll Miller. NRC Broadcasting is working with BRC staff to animate spring break week. Planned for the week will be a comedy night, family film nights, concerts, bar events and coupon book promotions.

Central Reservation numbers were up during the month of January. Lodging during President's weekend is looking good. Questions were asked of Mr. Wishowski concerning Average Daily Rates (ADR). He stated there is not a standard ADR at this time. In closing, Mr. Gagen report, compared to other ski towns, Breckenridge is faring well in the area of lodging.

***CONTINUED BUSINESS***

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

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

Tim Berry, Town Attorney, stated this ordinance is based on the State's bias-motivated crime statute. If approved on second reading it would make 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.

Mayor Warner opened the public hearing. There were no comments. He closed the public hearing. Mayor Warner thanked Jason Smith for bringing this matter to Council's attention. He thanked Judge Buck Allen for his advocacy in the matter. Mr. Smith thanked Council for responding to the matter so quickly. With no further questions or comments from Council, Mayor Warner asked for a motion.

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Mr. Mamula moved to approve Council Bill 2, Series 2010 as previously read into the record. Mr. Rossi made the second. The motion passed with all members of Council in favor of the motion.

**NEW BUSINESS**

**A. FIRST READING OF COUNCIL BILL, SERIES 2010**

1. Council Bill No 3, Series 2010- AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 2 OF TITLE 5 OF THE BRECKENRIDGE TOWN CODE CONCERNING SOLID WASTE AND WEEDS; AND MAKING CONFORMING AMENDMENTS TO THE BRECKENRIDGE TOWN CODE

Mr. Berry introduced this council bill stating his desire initially was to make it clear in the town's ordinance that paper and plastic bags cannot be placed at the curbside and tighten up the ordinance to prevent trash from being scattered by birds and other animals. As he worked further into the process he found the subject of trash is addressed in a few different chapters of the Town Code. The council bill presented tonight is an effort to centralize all the Town's trash -related ordinances into one chapter of the Town Code. Mr. Berry will be happy to answer questions concerning the more substantive changes mentioned in his memo. He asked if a motion to approve this council bill on first reading is proposed that the motion include a correction to a typo appearing in the definition of Weeds, changing the word my to any. (A plant not less than twelve inches (12") in height that tends to grow thickly where it is not wanted and to choke out ~~my~~ any desirable plants.) Mr. Berry stated Mr. Mamula's concerns about recyclables will be worked on.

Mayor Warner asked if there were any questions or comments from Council. There were none.

Mayor Warner asked for a motion.

Mr. Mamula moved to approve Council Bill 3, Series 2010 as previously read into the record including a change presented by the town attorney on Page 47 of 101 in Council's packet, changing the word my to any. Mr. Millisor made the second. A roll call vote was taken. The motion passed with all members of Council in favor of the motion.

2. Council Bill No 4, Series 2010 – AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF BRECKENRIDGE, AT THE REGULAR TOWN ELECTION TO BE HELD APRIL 6, 2010, PROPOSED AMENDMENTS TO THE BRECKENRIDGE TOWN CHARTER SETTING FORTH THE BALLOT TITLE; AND PROVIDING OTHER DETAILS IN CONNECTION WITH THE SUBMISSION OF THE QUESTIONS TO THE ELECTORS

Mr. Berry stated this ordinance, if approved, would refer several Charter amendments to the voters at the upcoming Breckenridge Regular Election on April 8. He explained the Town of Breckenridge is a Home Rule Municipality under Colorado law. The Town's Charter was initially adopted in 1980 and has been amended periodically since then. The procedure to amend the Charter is to have the Council adopt an ordinance referring questions to the voters. This ordinance if adopted would submit four different questions to the voters:

**Question A**

Effective April 6, 2010, shall Article VI of the Breckenridge Town Charter, entitled "Initiative and Referendum", be amended to provide that the procedure for exercising the Town electors' reserved rights of initiative and referendum shall be as provided by ordinance adopted by the Town Council, except that the following provisions of the current Breckenridge Town Charter shall be preserved in such ordinance:

1. A petition signed by at least fifteen percent of the registered electors of the Town shall be required to initiate a legislative matter; and
2. A petition signed by at least ten percent of the registered electors of the Town shall be required to require a referendum on a Town ordinance?

**Question B**

Shall Section 5.9 of the Breckenridge Town Charter be amended to provide that non-emergency Town ordinances take effect thirty days after final passage and publication?

**Question C**

Effective April 6, 2010, shall the definition of “elector” set forth in Section 15.12 (d) of the Breckenridge Town Charter be amended to provide that an elector is a person: (i) who has complied with the registration provisions of the Uniform Election Code of 1992; (ii) who resides within the Town, and (iii) whose name and address at the time of signing a petition or other official Town document matches the name and address for the person on the registration document at the Summit County Clerk and Recorder's office, and as it appears on the master elector list on file with the Colorado Secretary of State?

**Question D**

Effective July 1, 2010, shall the definition of “publication” set forth in Section 15.12(m) of the Breckenridge Town Charter be amended to allow publication of Town laws and notices to be made by posting on the Town’s official website, unless a different method of publication is required by applicable law?

Mr. Berry stated this ordinance has been through a couple variations, he would be happy to answer any questions Council might have.

Mayor Warner asked if Council had questions for Mr. Berry.

Mr. Millisor had a question concerning the changes proposed concerning Initiative and Referendum. He felt Initiative and Referendum were addressed in the Town’s Charter because it is viewed as a “sacred right” for the electorate. He was struggling with why this Council would let other Council’s in the future make the rules governing the right of Initiative and Referendum. He wondered if this Council would be making the process more difficult for citizens to exercise the right of Initiative and Referendum. Mr. Berry stated the Colorado Constitution requires municipalities to include provisions for Initiative and Referendum in their Charters. Those provisions can never be eliminated by subsequent Councils and can be amended only by a vote of the people. The signatures required currently in the Town’s Charter remain embedded in the Charter and cannot be amended by Council ordinance.

Because the Town Charter currently requires the maximum amount of signatures to initiate the Initiative and/or Referendum process, Mayor Warner asked if a future Council could make the requirements of Initiative and Referendum easier, or require fewer signatures to initiate either process. Mr. Berry responded they could not do that through a procedural ordinance. The number of signatures could only be changed by a Charter amendment, voted by the town’s electorate.

Mr. Rossi asked if there would be an appearance of Council “clamping down” rather than the effort being made to make the process more efficient. Mr. Berry responded this is an effort to preserve the integrity of the citizen’s Initiative and Referendum right, to preserve the required signature numbers currently embedded in the Charter and to give the Council the ability, by ordinance, to describe the procedures by which those rights will be implemented.

Mr. Berry stated his intention, if this council bill is approved on first reading, is to present to Council at the next worksession, a draft ordinance of Initiative and Referendum procedures. This way Council can begin to work through the procedures and the voters will be able to see what this Council believes should be the laws governing procedures of citizen’s Initiative and Referendum.

With no further questions or comments, Mayor Warner asked for a motion.

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Mr. Joyce moved to approve Council Bill 4, Series 2010 as previously read into the record. Mr. Mamula made the second. A roll call vote was taken. The motion passed with all members of Council in favor of the motion.

**B. RESOLUTIONS, SERIES 2010**

**A RESOLUTION APPROVING A CONTRACT FOR THE MAINTENANCE OF COLORADO HIGHWAY 9 WITH THE STATE OF COLORADO, DEPARTMENT OF TRANSPORTATION**

Mr. Gagen explained the town enters into, on a five year basis, an agreement with the Colorado Department of Transportation (CDOT) where the town assumes certain maintenance responsibilities for Highway 9 as it runs through town. Mr. Mamula asked if this resolution was “time sensitive”. He did not feel his questions were answered earlier today and wanted to make sure mountain communities were receiving the same “deal” (\$3395.00 per mile) other communities in Colorado were receiving.

With no further questions or comments from Council, Mayor Warner asked for a motion.

Mr. Mamula moved to continue Resolution No. 3, Series 2010 APPROVING A CONTRACT FOR THE MAINTENANCE OF COLORADO HIGHWAY 9 WITH THE STATE OF COLORADO, DEPARTMENT OF TRANSPORTATION to the February 23, 2010 meeting. Mr. Rossi made the second. A roll call vote was taken. The motion passed with all members of Council in favor of the motion

**C. OTHER**

Real Estate Transfer Tax Appeal: Mr. Berry stated this matter was scheduled initially by the tax payer for the Council to hear an appeal on the Town’s Real Estate Transfer Ordinance. He was advised earlier this evening that the applicant would like to request this hearing be heard at the first meeting in March (March 9). The town has no objection to the request. Mr. Berry asked that Council grant the continuance by motion.

Mr. Millisor made a motion to continue the Real Estate Transfer Tax Appeal to the March 9, 2010 meeting. Mr. Mamula made the second. A roll call vote was taken. All members of council were in favor of the motion.

**PLANNING MATTERS**

**A. Planning Commission Decisions of January 19, 2010**

With no questions, comments or request to call up an item, Mayor Warner declared the Planning Commission Decisions of the January 19, 2010 Planning Commission meeting would stand approved as presented.

**B. Report of Planning Commission Liaison**

Mr. Rossi reported during the worksession.

**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 at Council’s worksession.

B. **Breckenridge Open Space Advisory Commission** (Mr. Joyce) – Mr. Joyce reported at Council’s worksession.

C. **Breckenridge Resort Chamber** (Ms. McAtamney) - Ms. McAtamney was not present.

D. **Summit Combined Housing Authority** (Mr. Millisor) – Mr. Millisor reported at Council’s worksession

E. **Breckenridge Heritage Alliance** (Mr. Bergeron) – Mr. Bergeron was not present.

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F. **Sustainability** (Mr. Millisor) – Mr. Millisor reported at Council’s worksession.

***OTHER MATTERS***

Mr. Millisor asked about Bryan Whitcomb’s concerns about a contractor leaving unattended heavy equipment, over an extended period of time, at a construction site. Mr. Gagen stated there are currently no provisions in the code for this type of occurrence, however, staff will look at the situation and bring some recommendations to Council. Mr. Mamula brought up safety concerns in relation to this situation and others.

In closing, Mayor Warner announced a BOEC fundraiser being held at the Riverwalk Center on March 19. Films from the Banff Mountain Film Series will be shown.

***SCHEDULED MEETINGS***

***ADJOURNMENT***

With no further business to discuss, Mr. Mamula moved to adjourn the meeting at 8:22 p.m.

Submitted by Wanda Creen, Deputy Town Clerk.

ATTEST:

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Mary Jean Loufek, CMC, Town Clerk

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John Warner, Mayor